REVISION OF 1923

STATE OF MICHIGAN

LAWS RELATING TO

INSURANCE

COMPILED UNDER THE SUPERVISION OF

CHARLES J. DeLAND,

SECRETARY OF STATE

BY AUTHORITY

Lansing, Michigan
FORT WAYNE PRINTING CO.
State Printers
1923

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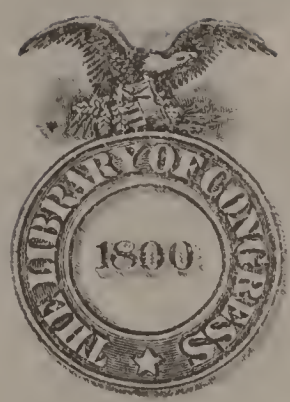

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NOTE.—The numbers in parentheses ( ), are compiler's sections and are consecutive throughout the book. The notes used refer to the compiler's sections. Section numbers of the compiled laws of 1915 are indicated by the section mark §. Annotated with supreme court decisions to and including the 221st Michigan Report. The decisions on former laws superseded by the code, have been assigned as near as possible to the text involved, in whole or in part. The character / is used in citing Michigan cases to avoid the repetition of Michigan.

INSURANCE LAWS

An Act to revise, consolidate and classify the laws of the state of Michigan relating to the insurance and surety business; to regulate the incorporation of domestic insurance and surety companies and associations and the admission of foreign companies; and to provide for the departmental supervision and regulation of the insurance and surety business within this state.

[Act 256, P. A. 1917.]

The People of the State of Michigan enact:

PART ONE.—THE INSURANCE DEPARTMENT.

CHAPTER I.—ORGANIZATION, ET CETERA, OF THE DEPARTMENT.

(1) SECTION 1. There is hereby established a separate and distinct state department which shall be especially charged with the execution of the laws in relation to insurance and surety business and to perform such other duties as may be required by law: Provided, however, That the said department so established shall be deemed and considered as in continuation of and the successor to the insurance bureau established by act number one hundred eight of the session laws of eighteen hundred seventy-one, and other acts amending and supplementing the same. The chief officer of the said department shall be known as the commissioner of insurance. He shall be a citizen of this state, and shall have his office at the seat of government, and shall personally superintend the duties of his office, and shall not be a stockholder or directly or indirectly connected with the management of affairs of any insurance company. He shall be appointed by the governor by and with the consent of the senate, and shall hold his office until his successor is appointed and qualified.

Department established.

Proviso.

Commissioner of insurance.

To be citizen of state, etc.

Appointment.

Term of office.

Am. 1919, Act 15; 1921, Act 391.

It is within the power of the legislature to provide for an examination into the affairs of existing insurance companies.—People v. State Ins. Co., 19 / 397.

(2) SEC. 2. The commissioner of insurance shall receive an annual salary of three thousand five hundred dollars payable as other state officers are paid under the accounting laws of the state. Within fifteen days from the time of notice of and subscribe the constitutional oath of office and file the

Salary.

Oath of office.

TITLE: Plaintiff's contention that Act No. 256, P. A. 1917, is unconstitutional because its title does not indicate the purpose of abrogating the constitutional right of trial by jury is without force, since it is the contract of insurance, and not the statute, which abrogates said right.—Innis v. Fireman's Fund Insurance Co., 218 / 253.

Bond.

same in the office of the secretary of state, and shall also his appointment the commissioner of insurance shall take within the same period give to the people of the state of Michigan a bond in the penal sum of fifty thousand dollars, with sureties to be approved by the auditor general, conditioned for the faithful discharge of the duties of his office.

Vacancy.

Whenever a vacancy shall occur in said office of commissioner by reason of death, removal, or otherwise, the governor shall fill such vacancy by appointment, by and with the advice and consent of the senate, if in session.

For an act making appropriations for personal services and expenses of the department, see secs. 422-24.

Seal, approval of, etc.

(3) SEC. 3. The said commissioner, with the approval of the governor, shall devise a seal, with suitable inscriptions, for his office, a description of which, with certificate of the approval of the governor, shall be filed in the office of the secretary of state, with an impression thereof, which seal shall thereupon be and become the seal of office of the commissioner of insurance and the same may be renewed whenever necessary.

Assignment of office rooms.

(4) SEC. 4. The board of state auditors shall assign to the said insurance department at Lansing suitable rooms for the conducting of the business of the said department, the necessary expense of which shall be audited by the said board on the certificate of the commissioner and paid on the warrant of the auditor general.

Deputies, examiners, etc.

(5) SEC. 5. The said commissioner of insurance may appoint deputies, examiners, clerks, actuaries, and other necessary assistants, and revoke such appointments at pleasure. The deputies so appointed shall be known as "first deputy" and "second deputy":

Proviso.

Provided, however, That the said second deputy shall have the qualifications of an actuary.

Oath of office.

Deputies.

The said deputies shall subscribe and file the constitutional oath of office. Either of said deputies may perform any duty or act devolving upon the commissioner of insurance, during his absence from the department, and the commissioner may assign either of said deputies to take charge of said department during such absence.

Salaries.

The first deputy shall receive an annual salary of not to exceed three thousand dollars and the second deputy an annual salary of not to exceed two thousand five hundred dollars, in the discretion of the commissioner.

Chief clerk and chief examiner.

The said commissioner may appoint and employ a chief clerk, and designate a chief examiner.

Salaries.

The chief examiner shall receive an annual salary of two thousand dollars; the chief clerk not to exceed fifteen hundred dollars per annum; and the compensation of assistant actuaries and assistant examiners shall be graded as follows:

Assistant actuaries and examiners.

Assignment to grades.

Grade A, grade B, grade C, grade D, grade E. All persons newly appointed as assistant actuary or assistant examiner shall be assigned to grade E, and thereafter shall be promoted for efficient service in a manner as shall be provided by the com-

missioner of insurance, but no person shall be appointed out of any such grade until he or she shall have served therein six months. The compensation for the respective grades shall be as follows: Grade E, not to exceed one thousand five hundred dollars per annum; grade D, one thousand six hundred dollars per annum; grade C, one thousand seven hundred dollars per annum; grade B, one thousand eight hundred dollars per annum; grade A, one thousand nine hundred dollars per annum. The chief clerk shall discharge such duties as may be assigned to him. Such other clerks as the commissioner may require shall be subject to the graded salary law of the state, and shall be paid according to the accounting laws thereof.

Compensation.

Clerks, how paid.

(6) SEC. 6. The necessary traveling and other necessary and actual expenses of the commissioner of insurance, his deputies, examiners, actuaries, or other employes, in discharging the duties imposed by this act, shall in all cases be allowed and audited by the board of state auditors, upon the approval of the commissioner of insurance, in accordance with the accounting laws of this state; and all such actual and necessary expenses incurred in connection with the examination or other investigation of any insurance company made pursuant to this act shall be certified by the commissioner of insurance, together with a statement of the number of days spent by each of such deputies, assistants, and employes or the commissioner himself, upon such examination or investigation, to the board of state auditors, who shall, if correct, approve the same, and such expenses shall be paid to the persons by whom they were incurred, upon the warrant of the auditor general out of the general fund of the state. It shall be the duty of the auditor general to thereupon prepare and present to the company so examined or investigated, a statement of such expenses and a per diem equal to the daily portion of the salaries paid to such persons engaged upon such examination or investigation, for the number of days so certified by the commissioner of insurance, and such company shall, upon receiving such statement, pay to the auditor general the amount stated therein to be by him paid into the general fund of the state: Provided, however, That if by any provision of this act a fixed sum per diem for such examination or investigation is required, the per diem shall be as fixed in such provision in lieu of that which is hereinabove provided for.

Expenses, how paid, etc.

Statement of, auditor general to prepare.

Proviso.

See Act 98, P. A. 1919, establishing budget system (now under supervision of state administrative board).

CHAPTER II.—REPORTS, EXAMINATIONS, FEES, ET CETERA.

(7) SECTION 1. All fees and charges for official services performed by said commissioner, his deputies or employes, shall, when collected, be forthwith turned over to the state treasurer and his receipt taken therefor. The said commissioner of insurance shall not retain as perquisites any fees

Fees, disposition of.

Extra service.

or any moneys received by him directly or indirectly, for the performance of duties connected with his office. No insurance corporation or any officer, director, or agent thereof shall directly or indirectly, pay by way of gift, credit, loan or any other pretense whatsoever, any sum of money or other valuable thing to the commissioner of insurance, his deputies or any clerk or employe of the insurance department for extra service; and it shall be unlawful for the commissioner of insurance, his deputies or any clerk or employe of the insurance department to accept any such payment for extra service except such fees as may be specifically authorized by law to be paid to the commissioner of insurance to be covered into the state treasury.

See Act 98, P. A. 1919, establishing budget system (now under supervision of state administrative board).

Examination of foreign companies.

(8) SEC. 2. It shall be proper and lawful for the commissioner of insurance or any person authorized by him to visit any insurance company in other states or foreign governments for the examination of its affairs, the expenses in all cases to be paid by said insurance companies. The insurance commissioner or any person authorized by him to make such visit and examination shall charge a sum not exceeding ten dollars per day for his services in addition to his expenses. And whenever it shall be necessary for the commissioner of insurance to employ or hire any special examiner, the per diem compensation provided by law to be paid by the insurance corporation to such special examiner shall be paid out of the general fund of the state and collected from such insurance corporation for the benefit of the state in the manner provided by section six of the preceding chapter of this act.

Expenses.

Special examiner.

Per diem compensation.

Annual report to governor.

(9) SEC. 3. The commissioner of insurance shall compile a report of the conduct of his office annually on or before the last day of June in each year, which report shall be printed for public information and use in such number as the commissioner may deem advisable, not to exceed fifteen hundred copies. Such report shall be addressed to the governor and be for his information primarily.

See section 4, Act 71, P. A. 1919, providing for annual financial report required under the uniform accounting law. Sec. 6 of Act 2, P. A. of 1921, (regular session), gives the state administrative board control over system of state accounting.

Annual statements, when filed.

(10) SEC. 4. The annual statement required by this act to be filed in the office of the commissioner of insurance by any insurance company doing business in this state, shall, unless otherwise provided for, be hereafter filed on or before the fifteenth day of February of the year following that covered by the statement; and a filing fee of twenty-five dollars shall be paid by all such insurance companies which are organized outside this state, subject to the retaliatory provisions of section twelve of this chapter, for any greater charge for filing such statements.

Fee.

Am. 1923, Act 171.

Sec. 1, chap. 2, part v, of Act 84, P. A. of 1921 (corporation code), requiring the filing of annual and other corporation reports, expressly exempts insurance corporations filing articles or reports with the insurance department, etc.

Sec. 7 of Act 85, P. A. of 1921, requires domestic insurance corporations, etc., to file an annual report with the secretary of state for year ending June 30, upon forms prescribed by the secretary of state. See sec. 414.

Company certificate of authority.

(11) SEC. 5. The commissioner of insurance shall, on or before March first of each year, issue certificates of authority to such companies as have filed their annual statements and have otherwise complied with the provisions of this act, which certificate shall bear date as of March first and shall expire on the last day of February following unless sooner revoked: Provided, That any insurance company or organization that is required by this act to file its annual statement at any other day than that mentioned herein and whose annual certificate of authority is required to be as of some other date than March first, shall continue to file such statement and to receive such certificate of authority as may be exceptionally provided for.

Proviso.

Examination of companies.

(12) SEC. 6. The commissioner of insurance in person or by any of his authorized deputies or examiners, shall have authority to examine any or all of the books, records, documents and papers of any insurance corporation at any time after its articles of association have been executed and filed, or after it has been admitted to do business in this state, and upon such an examination, he, his deputy or any examiner authorized by him, may examine under oath the officers or agents of such corporation or all persons deemed to have material information regarding such company's property or business. Such corporation, its officers and agents, shall produce its books and all papers in its or their possession relating to its business or affairs, and any other person may be required to produce any books or papers deemed to be relevant to the examination for the inspection of the commissioner of insurance, his deputy or examiners, whenever required, and the officers or agents of such corporation shall facilitate such examination and aid in making the same so far as it is in their power to do so. Such deputy or examiners shall make a full and true report, and furnish the company a copy thereof, of every examination which shall comprise only facts appearing on the books, records or documents of such corporation, or ascertained from sworn testimony of its officers or agents or other persons examined under oath, concerning its affairs and such conclusions and recommendations as may be reasonably warranted from such facts so disclosed. The commissioner of insurance shall grant a hearing to any corporation examined, upon its request, before filing such report and may withhold any such record from public inspection for such time as he may deem proper. He may, if he deem it for the interest of the public to do so, after such hearing, publish any such report or the result of any such examination as contained therein, in one or more newspapers of general circulation in the state.

Corporation to aid in.

Report on examination.

When hearing granted.

Report, may publish.

Power of legislature to authorize examination, see People v. State Ins. Co., 19 / 397.

Annual statements.

(13) SEC. 7. It shall be the duty of each and every insurance company, foreign or domestic, transacting business within this state, annually, on or before February fifteenth, to prepare under oath, and deposit with the commissioner of insurance a statement concerning its affairs upon such form and including such information as shall be prescribed by the commissioner of insurance. If [it] shall be the duty of the commissioner to prepare such forms of statements, as shall be suitable and adaptable to each kind or class of insurance authorized by this act. The commissioner of insurance is hereby authorized and directed to include in such forms, requisitions for information upon any and all important elements of such business, including any matter, condition or requirement regulated by this act.

Forms, who to prepare, etc.

Mich. Mut. Ins. Co. v. Com. Council, 133 / 411.

Failure to file, etc.

(14) SEC. 8. The commissioner of insurance is hereby authorized and empowered to address any inquiries to any insurance company, in relation to its doings or conditions, or any matter connected with its transactions; it shall be the duty of any company so addressed to promptly reply in writing to any such inquiries. Every insurance company organized under any law of this state failing to make and deposit the annual statement required in the preceding section, or failing to reply to any inquiry of the said commissioner of insurance, shall be subject to a penalty of five hundred dollars and an additional five hundred dollars for every month that such company shall continue thereafter to transact any business of insurance. Every insurance company organized without this state, and doing business herein, failing to make and deposit such annual statements, or to make satisfactory replies to such inquiries as may be put to it, concerning its affairs, by the commissioner of insurance, shall be subject to the like penalties and to a revocation of its authority to do business in this state.

Penalty.

Foreign companies.

Revocation.

It is within the power of the legislature to provide for an examination into the affairs of insurance companies doing business in this state.—People v. State Ins. Co., 19 / 392. As to revocation of certificate, see Life Ins. Co. v. Ins. Com'r., 128 / 85; Am. Health & Accident Ins. Co., 154 / 193.

Annual statements, forms prepared.

(15) SEC. 9. It shall be the duty of the commissioner of insurance to prepare and furnish to each of the insurance companies, doing business in this state, printed forms of the annual statements required by this act, which statements shall be printed at the expense of the state. It shall be the duty of the commissioner of insurance to cause the information contained in the statements required by this act to be arranged in convenient form, and published in the annual report of the insurance department.

Violation reported to attorney general.

(16) SEC. 10. If it shall appear from any examination made by the commissioner of insurance or from any report made to him pursuant to this chapter or any other provision of this act, that any provision of this act or of any laws of the state have been violated, the commissioner of insurance

shall immediately report such violation to the attorney general in writing and the attorney general shall take such action thereon as the facts warrant.

(17) SEC. 11. Whenever the commissioner of insurance shall have reason to suspect the correctness of any annual statement, or that the affairs of the company making the same are in an unsound condition, it shall be his duty to cause an examination to be made into the books, papers, and securities of such company, and if in his opinion the condition of the company is such as to render it improper that it should continue to issue policies in this state, he shall have the power to revoke the license of such company; and whenever he shall deem it for the public interest so to do, he shall publish the result of such investigation in such newspaper as he shall select, or if the company is one organized under the laws of this state, then in some newspaper published in the county where the principal business office of the company is located. The securities deposited with the state treasurer shall remain in his hands, notwithstanding the company may cease or be prohibited to do business within the state, and shall only be withdrawn on the order of the supreme court, or when the officers of the company shall show by affidavit to the satisfaction of the commissioner of insurance and state treasurer that the risks for which the company remains liable, and for the security of which the same are held, are less than the securities so deposited, in which case the company may be permitted to withdraw the surplus securities over and above the risks which then remain.

Examination of companies.

Revocation of license.

Securities, withdrawal of.

The legislature may provide for an examination into the affairs of insurance companies doing business in this state and may enforce such examination by mandamus.—People v. State Ins. Co., 19 / 392. The commissioner can revoke a license only upon the investigation and proceedings, and in the particular cases, fixed by the statutes.—Nat'l Life Ins. Co. v. Commissioner, 25 / 321. After the commissioner has revoked the authority of a foreign insurance company, it cannot recover upon premium notes, upon which, by the terms of its policies, payments fall due in advance.—American Ins. Co. v. Stoy, 41 / 385. The state treasurer will not be required to permit the withdrawal of securities, when the condition of a company's affairs are such as to render further business imprudent, and when the death claims and policies outstanding approximate the deposit; nor unless such application therefor, as the statute contemplates, has been made. —Imperial Life Ins. Co. v. State Treasurer, 95 / 513.

(18) SEC. 12. Whenever, by any law in force without this state, an insurance corporation of this state or agent thereof is required to make any deposit of securities thereunder for the protection of policy holders or otherwise, or to make payment for taxes, fines, penalties, certificates of authority, valuation of policies, license fees, or otherwise, or any special burden or other burden is imposed, greater than is required by the laws of this state for similar foreign corporations or their agents, the insurance companies of such states or governments shall be and they are hereby required as a condition precedent to their transacting business in this state, to make a like deposit for like purposes with the state treasurer of this state, and to pay to the commissioner of insurance for taxes, fines, penalties, certificates of authority, valuation of policies, license fees and otherwise a rate equal to such charges and payments imposed by the laws of such

Retaliatory provisions.

Deposit.

Payment of taxes, fees, etc.

other state upon similar corporations of this state and the agents thereof. In the case of fire department or salvage corps taxes or other local taxes the rate shall be computed by the commissioner of insurance by dividing the total of such payments made by insurance corporations of this state in such state by the gross premium paid by such corporations in such state less return premiums. Any corporation refusing for thirty days to make payment of such fees or taxes as above required shall have its certificate of authority revoked by the commissioner of insurance: Provided, That corporations organized under the laws of any state or country, other than these United States, shall, as to the provisions of this act, be considered corporations of that state wherein their general deposit for the benefit of their policy holders is made.

Revocation of certificate.

Proviso.

Fees.

(19) SEC. 13. For making copies of any papers in his office, the commissioner of insurance shall charge at the rate of twenty cents per folio, and for attaching his certificate thereto twenty-five cents.

Section 13729, C. L. 1915, defines a folio as follows: The term "folio," when used as a measure for computing fees or compensation, shall be construed to mean one hundred words, counting every figure necessarily used, as a word: and any portion of a folio, when in the whole draft or paper there shall not be a complete folio and when there shall be any excess over the last folio, shall be computed as a folio.

Disposition of moneys.

(20) SEC. 14. The moneys collected under this act shall be turned over by the commissioner of insurance to the state treasurer and placed in a fund which is hereby reappropriated and from which shall be paid the expenses of the insurance department, for which an appropriation is not otherwise provided: Provided, That any balance remaining in said fund at the close of business December thirty-first of each year shall be transferred by the state treasurer to the general fund of this state.

Proviso.

See section 8, Act 98. P. A. 1919, as to the disposition of income of departments under the budget system.
See also sections 422-24 (Act 268, P. A. 1923) making appropriations for the department of insurance for the years ending June 30, 1924 and 1925.

Amortization of bonds, etc.

(21) SEC. 15. All bonds or other evidences of debt having a fixed term and rate held by any life insurance company, assessment life association or fraternal beneficiary association authorized to do business in this state may, if amply secured and not in default as to principal and interest, be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made: Provided, That the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase: And provided further, That the commissioner of insurance shall have full discretion in determining the method of calculating values according to the foregoing rule. Any fraternal beneficiary association authorized to do business

Proviso.

Further proviso, method of calculation.

in this state may credit in its valuation report, as contingent assets, or charge as contingent liabilities, the difference between the present value of the actual interest rate earned and the present value of the assumed rate under the standard of valuation used, from the date of such valuation to the maturity date of investments, or if payment date is optional, to such optional date, and for an average like period on all other mortuary or benefit funds: Provided, That the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase: And provided further, That the commissioner of insurance shall have full discretion in determining the method of calculating values according to the foregoing rule.

Proviso.

Further proviso.

Added 1921, Act 226.

CHAPTER III.—LIQUIDATION AND DISSOLUTION OF DOMESTIC INSURANCE COMPANIES.

(22) SECTION 1. This chapter shall apply to all domestic corporations, associations, societies and orders transacting an insurance business under authority of any law of this state, including all corporations, associations, fraternal beneficiary societies and orders which are subject to examination by the commissioner of insurance, or which are doing or attempting to do or representing that they are doing the business of insurance in this state, or which are in process of organization intending to do such business therein, or to become incorporated under any law of this state for the transaction of an insurance business.

Chapter to apply.

(23) SEC. 2. Whenever any such corporation,

Dissolution, when commissioner may ask for.

(a) Is insolvent; or

(b) Has refused to submit its books, papers, accounts or affairs to the reasonable inspection of the commissioner of insurance, or his deputy or examiner; or

(c) Has neglected or refused to observe an order of the commissioner of insurance to make good any deficiency within the time prescribed by the commissioner, whenever its capital shall become impaired exceeding fifteen per centum thereof, if it be a stock corporation, or its reserve, if it be a mutual corporation, shall have become impaired; or

(d) Has by contract of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of another corporation, association, society or order, without first having obtained the written approval of the commissioner; or

(e) Is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policy-holders, or to its creditors, or to the public; or

(f) Has wilfully violated its charter or any law of the state;

(g) Whenever any officer thereof has refused to be examined under oath touching its affairs; or

(h) If such corporation be found, after examination, to be in such condition that it could not meet the requirements for incorporation and authorization;

Application for order.

The commissioner of insurance may, the attorney general representing him, apply to the circuit court in the judicial circuit in which the principal office of such corporation is located, for an order directing such corporation to show cause why the commissioner should not take possession of its property and conduct its business, or for such other relief as the nature of the case and the interests of its policy-holders, creditors, stockholders, or the public may require.

Of the voluntary dissolution of corporations, see §13563 et seq.; also subd. 2, chap. iv, Act 84, P. A. 1921.

Injunction may issue.

(24) SEC. 3. On such application, or at any time thereafter, such court may in its discretion, issue an injunction restraining such corporation from the transaction of its business or the disposition of its property until the further order of the court.

Return of order.

On the return of such order to show cause, and after a full hearing, the court shall either deny the application or direct the commissioner forthwith to take possession of the property and conduct the business of such corporation and retain such possession and conduct such business until, on the application either of the commissioner, the attorney general representing him, or of such corporation, it shall, after a like hearing, appear to the court that the ground for such order directing the commissioner to take possession has been removed and that the corporation can properly resume possession of its property and the conduct of its business.

Liquidation, order of.

(25) SEC. 4. If, on like application an order to show cause, and after a full hearing, the court shall order a liquidation of the business of such corporation, such liquidation shall be made by and under the direction of the commissioner of insurance who may deal with the property and business of such corporation in his own name as commissioner or in the name of the corporation, as the court may direct, and shall be vested by operation of law with title to all the property, contracts and rights of action of such corporation

Filing.

as of the date of the order so directing him to liquidate. The filing or recording of such order in any record office of the state, shall impart the same notice that a deed, bill of sale or other evidence of title duly filed or recorded by such cor-

What to provide.

poration would have imparted. The order of liquidation shall, unless otherwise directed by the court, provide that the dissolution of the corporation shall take effect upon the entry of such order in the office of the clerk of the county wherein such corporation had its principal office for the transaction of business.

Special deputy commissioners.

(26) SEC. 5. For the purposes of this chapter the commissioner shall have power to appoint, under his hand and

official seal, one or more special deputy commissioners of insurance as his agent or agents, and to employ such counsel, clerks and assistants as may by him be deemed necessary, and give each of such persons such power to assist him as he may consider wise. The compensation of such special deputy commissioner, counsel, clerks and assistants, and all expenses of taking possession of and conducting the business of liquidating any such corporation shall be fixed by the commissioner, subject to the approval of the court, and shall, on certificate of the commissioner, be paid out of the funds or assets of such corporation. In any proceedings under this chapter the commissioner, his deputy or any examiner or special deputy shall have all of the powers given to the commissioner, by any law of this state authorizing the commissioner to make or cause to be made examinations of insurance corporations, including the power to examine under oath the officers and employes of such corporation, and to compel the production of books and papers as herein provided.

Compensation, etc., how paid.

Powers.

(27) SEC. 6. The commissioner shall publish, in his annual report, the names of the corporation so taken possession of, whether the same have resumed business or have been liquidated, and such other facts as shall acquaint the policyholders, creditors, stockholders, and the public with his proceedings under this chapter; and to that end the official in charge of any such corporation shall file annually with the commissioner a report of the affairs of such corporation.

Publication of companies in liquidation, etc.

(28) SEC. 7. The commissioner of insurance or his deputy or special deputy, acting under the provisions of this chapter in any liquidation proceedings, shall have all the powers of a receiver in insolvency proceedings, and may do and perform any act for the protection of the assets or the recovery of the same, and for the settlement or discharge of the obligations of the insurance company, that may be necessary or that may be directed by the court. He shall have the same authority to make assessments upon stockholders or members of the company as the officers thereof are authorized to make under the provisions of this act, and it shall be his duty to make such assessments, ratably in any case where authorized, to any extent that may be necessary to discharge the whole obligations, existing at any time during such receivership or insolvency proceedings. He may bring suit to recover and enforce such assessments in any court of competent jurisdiction against the members or stockholders, as the case may be, or, by direction of the court having jurisdiction of the liquidation, may bring such suit or suits in the circuit court without regard to the amount involved. Such receiver shall be held accountable to the circuit court of the county having jurisdiction for his actions in the premises.

Powers of receiver.

Authority to assess.

Suit to enforce, etc.

The authority to prescribe the liabilities of the members to be assessed relates to the ordinary exercises of corporate powers, while the company is solvent and carrying on business in the ordinary way; but the statute prescribes its own rule for assessments after the corporation has passed into the hands of a receiver and this rule cannot be changed or limited by the charter or by-laws.—Russell

v. Berry, 51 / 287; Macklem v. Bacon, 57 / 337. But an agreement that liability should be limited to the amount of the premium notes was sustained, on the ground that such was the understanding of all members of the company.—Macklem v. Bacon, 57 / 337. Members of a mutual fire insurance company, if liable at all for assessments made by a receiver, can be made so only by the contract existing between them and the company, which contract is evidenced by the application and policy.—Wardle v. Hudson, 96 / 432. The holder of a canceled policy is not liable to assessment by the receiver, if he has paid all liabilities up to the time of cancellation.—Tolford v. Church, 66 / 431. A receiver derives his authority to make assessments directly from the statute. Such assessments are not conclusive, but are prima facie evidence of regularity and of right to recover.—Wardle v. Townsend, 75 / 385. In making assessments, the receiver is invested with a liberal discretion, which will not be interfered with unless abused.—Id. The evident object of the provision for suit in the circuit court was to authorize the receiver to sue for sums less than $100 in the circuit court and to recover costs in such suits.—Bacon v. Clyne, 70 / 185; Wardle v. Townsend, 75 / 396. The statute of limitations does not begin to run against a member's liability for an assessment, until the assessment is made.—Peake v. Fuller, 123 / 684.

Under the continuance of the business of the association by the receiver, he may be required to levy an assessment for the purpose of paying a death claim accruing after the filing of such petition, but before his appointment.—Taft v. Judge, 129 / 312. The discretionary action of a circuit judge in removing a receiver will not be reversed where it clearly appears that he did not accomplish what he ought to and would have accomplished had he exercised the diligence of a prudent man in winding up a business of his own.—In re Angell, 131 / 345. A receiver will be charged with assessments lost through his want of diligence in learning of the death of the debtors and presenting the claims against their estates.—Id. When question of validity of assessment for excessiveness cannot be made.—Collins v. Welch, 141 / 676. A member of a mutual fire insurance company is liable to the receiver after its insolvency for an assessment of his proportion of the losses and expenses sustained by the company up to the time that he terminated his relation with it, and is not relieved by having paid the amount claimed by the company to be due from him at the cancellation of the policy.—Nichol v. Newman, 160 / 582.

Petition for liquidation.

(29) SEC. 8. In any case arising under this chapter the commissioner of insurance may file his petition for liquidation or receivership in the circuit court for the county of Ingham, and the preliminary steps towards the appointment of a receiver shall be taken and heard in such circuit, and the circuit court of Ingham county may at any time thereafter transfer such case to the circuit court of the county in which such company may have its principal place of business, for such further steps and action as may be necessary in the premises, as in cases of change of venue. In all other respects proceedings under this chapter shall be conducted according to the procedure prescribed in the judicature act of this state. The circuit court in the first instance may require the commissioner of insurance or the person acting as his deputy in the liquidation proceedings, to file a bond as in other receiverships. Such receiver shall in no case be permitted to increase the liabilities of any company undergoing liquidation excepting for the purpose of preserving its assets.

Bond of commissioner.

The authority to prescribe the liabilities of the members to be assessed relates to the ordinary exercise of corporate powers, while the company is solvent and carrying on business in the ordinary way; but the statute prescribes its own rule for assessments after the corporation has passed into the hands of a receiver and this rule cannot be changed or limited by the charter or by-laws.—Russell v. Berry, 51 / 287; Macklem v. Bacon, 57 / 337. But an agreement that liability should be limited to the amount of the premium notes was sustained, on the ground that such was the understanding of all members of the company.—Macklem v. Bacon, 57 / 337. Members of a mutual fire insurance company, if liable at all for assessments made by a receiver, can be made so only by the contract existing between them and the company, which contract is evidenced by the application and policy.—Wardle v. Hudson, 96 / 432. The holder of a canceled policy is not liable to assessment by the receiver, if he has paid all liabilities up to the time of cancellation.—Tolford v. Church, 66 / 431. The authority of the receiver to make assessments appears conclusive. The language is explicit. No exception is made or qualification expressed. Nor is any discretion given. The terms are imperative.—Russell v. Berry, 57 / 337. A receiver derives his authority to make assessments directly from the statute. Such assessments are not conclusive, but are prima facie evidence of regularity and of right to recover.—Wardle v. Townsend. 75 / 385. In making assessments, the receiver is invested with a liberal

discretion, which will not be interfered with unless abused.—Id. The evident object of the provision for suit in the circuit court was to authorize the receiver to sue for sums less than $100 in the circuit court and to recover costs in such suits.—Bacon v. Clyne, 70 / 185; Wardle v. Townsend, 75 / 396. The statute of limitations does not begin to run against a member's liability for an assessment, until the assessment is made.—Peake v. Fuller, 123 / 684. A member of a mutual fire insurance company is liable to the receiver after its insolvency for an assessment of his proportion of the losses and expenses sustained by the company up to the time that he terminated his relation with it, and is not relieved by having paid the amount claimed by the company to be due from him at the cancellation of the policy.—Nichol v. Newman, 160 / 582. Under the provision for the continuance of the business of the association by the receiver, he may be required to levy an assessment for the purpose of paying a death claim accruing after the filing of such petition, but before his appointment.—Taft v. Judge, 129 / 312. The discretionary action of a circuit judge in removing a receiver will not be reversed where it clearly appears that he did not accomplish what he ought to and would have accomplished had he exercised the diligence of a prudent man in winding up a business of his own.—In re Angell, 131 / 345. A receiver will be charged with assessments lost through his want of diligence in learning of the death of the debtors and presenting the claims against their estates.—Id.

CHAPTER IV.—RATING BUREAUS.

(30) SECTION 1. It shall be the duty of the commissioner of insurance to establish a rating division for fire insurance within his department. For this purpose the insurance commissioner may employ not to exceed three experts and assistants, having experience in the operation of the fire insurance business and fire insurance rating and the use and application of schedules used in such rating, to take charge of such division, and such clerical help as may be necessary to maintain the work of such division. The number and compensation of such experts, assistants and clerks shall be fixed and determined by the state administrative board. The compensation and necessary expenses occasioned by the employment and duties imposed by this chapter shall be payable out of the appropriation for the insurance department.

Division established.

Compensation, etc.

How paid.

Am. 1923, Act 12.

(31) SEC. 2. It shall be the duty of the commissioner of insurance to thoroughly investigate the subject of fire insurance rates in this state, through the rating division hereby created, and to keep such information in convenient form in his office for the public use. Such investigation shall include the study of scientific methods of estimating fire hazards, fire protection, prevention of fires, cost of operation of insurance companies, the experience of insurers both within and without this state, and the methods or systems in use for determining fire insurance rates and ratings.

Investigations authorized.

What to include.

Am. Id.

(32) SEC. 3. The commissioner of insurance through said rating division shall have authority to determine the adequacy or the excessiveness of any rate charged by any fire insurance company on Michigan risks, on complaint of any individual or class of individuals or corporation, private or municipal, or on his own initiative, and may suspend any rate being charged, published, or put in force by any insurance company on Michigan risks, without prejudice to any particular policy or contract party, when it shall be made to

May determine adequacy, etc., of rates.

appear that such rate is excessive, and the commissioner shall fix and order substituted a just and reasonable rate therefor, which substituted rate shall be based upon relative hazards, local conditions and all other reasonable elements entering into fire insurance ratings and rates. No order by the commissioner of insurance substituting any rate shall be taken until after a hearing in which the immediate parties at interest are represented, or given due notice of the same. The determination of the commissioner shall be subject to court review, in the manner hereinafter provided in section thirteen.

May substitute rate.

Review.

Am. Id.

(33) SEC. 4. Nothing in this chapter contained shall be construed as prohibiting any insurance company from maintaining its own rating bureau or the maintenance of bureaus on the part of fire insurance companies in common with each other, subject to the antimonopoly laws of this state, or writing any insurance independent of bureau ratings subject to the provisions of section eleven of this chapter, but each fire insurance company shall be held individually liable for the rates adopted by it resulting in any violation of this chapter: Provided always, That any fire insurance company, on application and the payment of its reasonable share of maintenance thereof, shall be admitted to membership in any such bureau: And provided further, That no person, firm or corporation, or association of insurance companies or their agents or representatives shall, after this amending act takes effect, establish or maintain any such rating bureau without first obtaining a license therefor, and for any branch thereof, from the commissioner of insurance of this state, nor without otherwise complying with the provisions of this chapter respecting such license. The term "rating bureau" within the meaning of this act shall be deemed to mean and include any person, firm, corporation, or association of insurance companies, engaged in the business of fixing, establishing, publishing or promulgating rates for fire insurance to any insurance company or companies, by inspecting risks, or estimating the hazards, upon which fire insurance rates are based: Provided further, That no such bureau shall be governed, directed or its manager or management be chosen by or be subject to, any board, body, or directorate, composed in the majority of persons not residents of this state.

Company may maintain bureau.

Liability.

Proviso, membership.

Further proviso, license.

"Rating bureau" defined.

Further proviso, control.

Am. Id.

(34) SEC. 4-a. Each rating bureau desiring to engage in such business shall, through its owner or its authorized agent, apply to the commissioner of insurance for a license for that purpose, upon a form to be made and supplied by such commissioner. Such application shall show: The name by which the bureau is to be known in law, and the owner or owners of, and the insurance companies contributing to the same, with their addresses, and the location of the chief and branch offices of such bureau; that such bureau

Bureau license.

Application, what to show.

agrees to comply with the insurance laws of this state and any lawful order of the commissioner of insurance relative to such bureau and particularly with provisions of this chapter; that it will not employ unlicensed raters within this state; and such further declarations or statements as may be required by the commissioner of insurance by virtue of this act. Each such application shall be accompanied by a license fee in the sum of two hundred fifty dollars for the main or head bureau and fifty dollars for each branch office thereof. Upon receipt of such application and license fees the commissioner of insurance shall issue licenses in accordance therewith to such applicant for the term of one year from the date of issuance: Provided, however, That the commissioner may refuse such license to any bureau maintained in whole or in part by any insurance company or similar bureau not licensed to do business in this state, or which is under the management of any officer or employe not licensed as a rater in this state or which is in default in complying with any order issued by said commissioner. Every such license shall be revocable by the commissioner of insurance for any violation of the provisions of this act committed by any officer or manager of the licensee, or such license may be temporarily suspended pending the rectification of the matter or things committed in violation of the terms of such license, in the discretion of said commissioner. No such license shall be suspended or revoked, however, without first giving such bureau a hearing upon the complaint against it, which hearing shall be held before the commissioner upon such reasonable notice as he may determine.

Fee, main and branch offices.

Term of license.

Proviso, may refuse license.

Revocation or suspension of license.

Hearing.

No person employed by any rating bureau shall engage in the business of inspecting fire insurance risks or property, or in the estimating of or the computation of fire insurance rates in this state without first being licensed therefor by the commissioner of insurance as a rater. Each applicant for such license shall apply to the commissioner of insurance upon a blank application to be prescribed by him, setting forth his name, residence, length of experience as a rater or in the fire insurance business, the rating bureaus, if any, with which he has been connected, and with which he is then employed. Such application shall be accompanied by a fee of twenty-five dollars, and shall give as reference of good character and ability the names of at least two business or professional men of good repute in the community in which he resides or has resided within the next preceding two years. Upon receipt of such application and fee the commissioner shall, if satisfied of the good character and fitness of such applicant, issue a license to such applicant for the term of one year from the date of issuance. Every such license shall be revocable in the same manner as are the licenses of insurance agents under this act, for any violation of the terms of this chapter.

Rater's license required.

Application.

Fee.

Term of license.

Revocation.

Renewal. All licenses issued hereunder shall be renewable at the expiration thereof upon the same terms and upon the payment of the same fees as are herein prescribed for the first license.

Operating without license. Any person operating any bureau, either as owner, principal, or manager, or any person engaging in the business of a rater, without having a valid license therefor, shall be

Penalty. deemed guilty of a misdemeanor, and shall upon conviction thereof be subject to imprisonment in the county jail for the term of not exceeding ninety days, or a fine of not exceeding one hundred dollars, or to both such fine and imprisonment in the discretion of the court; and each day of such operation or engaging shall be deemed a separate offense hereunder.

Added 1923, Act 12.

Compacts prohibited. (35) SEC. 5. No fire insurance company or any other insurer, or any representative of any fire insurance company or other insurer shall enter into or act upon any agreement with regard to the collecting of any rate for fire insurance upon property within this state in violation of this act, or of any other law of this state.

Contract and agreement. (36) SEC. 6. Except as contained in the policy and the usual agreement for other insurance, no insurance company or insurer shall make any contract or agreement with any person insured or to be insured that the whole or any part of any insurance shall be written by or placed with any particular company, insurer, agent or any group of companies, insurers or agents.

Michigan office. (37) SEC. 7. Every rating bureau making rates on or for property located in Michigan shall maintain an office within this state, and every fire insurance company or other insurer aforesaid shall in its annual application for a license specify each rating bureau making rates upon property located within

Membership. this state of which it is a member, and, during the year, shall file notice of any other such rating bureaus of which it has become a member.

Am. 1923, Act 12.

Survey filed as record. (38) SEC. 8. Every rating bureau engaged in making rates or estimates for rates for fire insurance on property in this state shall inspect every risk specifically rated by it upon schedule, and make a written survey of such risks which shall be filed as a permanent record in the office of such bureau.

Copies on request. A true copy of each such survey shall be furnished to the owner upon his request, and to the commissioner of insurance within ten days after such schedule has been completed.

Schedules confidential. Such schedules, so filed, shall be deemed confidential records in the insurance department, and no person not employed in such department shall have access thereto without the written consent of the owner of the property scheduled and upon ex-

What to show. press authority of the commissioner. Every such schedule shall show the name or names of the rater or raters who in-

Filing of basic schedules. spected the risk and who figured the rates. Every such bureau shall file with the commissioner of insurance at the

time of applying for its license a true copy of all basic schedules used by it in figuring rates and of all rules or practices pertaining to the final rate, including all amendments thereto, rules and regulations thereunder, and all interpretations thereof, and of its instructions to its agents, inspectors or other employes in relation to the application thereof; and shall also, from time to time as the same are made, furnish said commissioner with true copies of all new changes, modifications, additions thereto or interpretations thereof. No such filings shall be effective or be employed in this state unless and until approved by said commissioner, and the commissioner shall, after reasonable notice and hearing thereon, have the authority to disapprove any particular part, rule, requirement or interpretation pertaining to such filings and to approve the rest, or to revoke his approval once given to the whole or any part of such filings, upon further consideration, in which case he shall notify the bureau of his action; and no such bureau shall thereafter use or employ any schedule, rule, interpretation, or part thereof, so disapproved.

Interpretations.

Modifications.

When filings effective.

Disapproval.

Notice.

Am. Id.

(39) SEC. 9. The commissioner of insurance may address inquiries to any rating bureau which is or has been engaged in making rates or estimates for rates for fire insurance upon property of this state, in relation to the organization, maintenance or operation, or any other matter connected with its transactions, and shall require the filing of schedules, rates, forms, rules, regulations and such other information as may be required, and it shall be the duty of each such rating bureau to promptly make such filing or reply to such inquiries in writing. The commissioner of insurance shall have the power to examine any such rating bureau as often as he deems it expedient to do so, and shall have access to all the books, determinations, documents, schedules, forms and records of such bureau for the purpose of obtaining information for the use of the state. The commissioner shall have the same power of examination and inspection of such bureaus as is vested in him by this act with respect to insurance companies. Any owner, officer, or employe of any such bureau who refuses to permit any such examination or inspection or who wilfully hinders or delays the same, or who refuses to furnish the commissioner any information in his possession or under his control, as provided for herein, shall be deemed guilty of a misdemeanor and in addition thereto the license of such bureau or the owner, officer or employe thereof, or all of them may be revoked or suspended by the commissioner as in other cases.

Inquiries.

Examinations.

Power vested.

Penalty for hindrance, etc.

Am. Id.

(40) SEC. 10. No fire insurance company or other insurer against the risk of fire or lightning shall fix or charge any rate for fire insurance upon property in this state which is

Excessive or discriminatory rates.

excessive or which discriminates unfairly between risks in the application of like charges and credits, or which discriminates unfairly between risks of essentially the same hazards, wherever located, regard being had to the relative degree of protection against fire, or which discriminates unfairly against or in favor of classes, or communities as a whole. Every rating bureau that fixes, finds, or advises any insurance company to charge any rate for fire insurance upon any property in this state which is excessive or which is discriminatory within the meaning of this chapter, shall be liable to having its (or his) license revoked or suspended by the commissioner of insurance as in other cases, in addition to any other penalties prescribed in this chapter.

Penalty.

Am. Id.

(41) SEC. 11. Any deviation of any insurance company or insurer from the schedule of rates established by such company shall be uniform in its application to all of the risks in the class for which the deviation is made, and no such uniform deviation shall be effective unless notice thereof and the reason therefor shall be filed with the commissioner of insurance, and has been approved by him.

Uniform deviation.

Approval required.

Am. Id.

(42) SEC. 12. The attorney general, the commissioner of banking and the commissioner of insurance, as chairman thereof, shall constitute a commission to be known as the insurance rating commission, and upon written complaint being filed in the office of such commissioner of insurance or upon his own information that discrimination in rates exists between risks, in the application of rules of classification or of like charges and credits, or between risks of essentially the same hazard, wherever located, regard being had to the relative degree of protection against fire, or in any other manner prohibited by this act, such commissioner of insurance may order a hearing before such commission for the purpose of determining such questions of discrimination. In any proceeding authorized by this section, complaint may be made against either the insurance company or companies or the bureau concerned as the case may be, in making, fixing, finding, promulgating or charging the rate or rating complained of. The review of such rate before said commission shall be had only after ten days' notice to all parties immediately interested; and if, upon such hearing, the commission shall determine that said rate is discriminatory, it shall have power to order the discrimination removed; but no such discrimination shall be removed by increasing the rate or rates on any risk or class of risks affected by such order unless it shall be made to appear to the commission that such increase is justifiable. Any rate which is excessive or inadequate as the case may be shall be prima facie deemed to be discriminatory. The commissioner of insurance shall not be disqualified in any such hearing or proceeding by

Insurance rating commission.

Hearings.

Complaints, how made.

Notice of review.

When rate deemed discriminatory.

Commissioner not disqualified.

reason of being the real or nominal complaining party. Said commission may make and enforce all necessary rules and regulations as to matters of practice before it, and shall have the right to summon witnesses to appear before it in any matter under its jurisdiction, and to swear and compel them to testify; and in any case where a witness duly summoned shall refuse to testify or to answer questions put to him, shall have the right to apply to any circuit court in whose jurisdiction such hearing is being held for a writ of attachment against such witness, and in such case the court shall issue its order compelling such witness to appear or testify as the case may be, as provided in like cases in the judicature act of this state. Whenever it becomes necessary to summon any witness, the chairman of such commission shall so certify to the auditor general, and he shall issue his warrant upon the state treasurer for the estimated expense of fees and compensation of such witness, payable out of the general fund to the said chairman, who shall be responsible for the proper summoning and payment of such witness.

Rules and regulations.

Writ to compel testimony.

Summoning and payment of witnesses.

Am. Id.

(43) SEC. 13. Any violation of the provisions of this chapter by any fire insurance company or other insurer authorized to effect insurance against the risk of loss or damage by fire or lightning in this state or by any rate-making bureau or officer or agent of either, shall be cause for suspension of the authority of such company, insurer, rate-making bureau or agent to transact any business in this state until it or he shall have paid to the commissioner of insurance for the use and benefit of this state a penalty of not more than two hundred dollars for each violation, which penalties shall be assessed by the said commissioner of insurance, or the court, whichever has jurisdiction of the matter or thing complained of and determined as the case may be: Provided, That any action taken by the commissioner of insurance under the provisions of section three or section four-a, or by the insurance rating commission under section twelve of this chapter shall be subject to review by certiorari in the circuit court for Ingham county, but no order of the said commissioner or commission shall be deemed to be suspended by reason of the issuance of such writ of certiorari unless the applicant for such writ shall provide a bond with such sureties and in such sum as the court shall fix and approve conditioned upon the payment by such applicant of all penalties and costs awarded or assessed against it in the final hearing, and the repayment by such applicant of such sum or sums of money to policy holders involved in or affected by such decision, which bond and the sureties thereon shall be first approved by the circuit judge and filed as in other cases. In addition to such bond, the company or companies securing such stay shall file a statement with the court showing the name and address and policy number of every policy holder in the class affected by such

Suspension, cause for.

Penalty.

Proviso, review.

When order not suspended.

Bond.

Filing required.

Deposit.

order, and shall deposit as the court may order a sufficient sum of money to make restitution to such insured parties of the amount of the excess of the premium collected as found by the commissioner or commission as the case may be, and upon the final judgment of the court, shall make any and all repayments as shall be ordered by the court in accordance with its findings and judgment thereon. Reasonable costs may be awarded by the commissioner or commission or court, in any hearing or review had under this chapter.

Costs.

Am. Id.

Companies exempted.

(44) SEC. 14. This chapter shall not apply to any fire insurance company authorized to do business in this state not charging an advance premium, nor to companies organized and doing business under chapter four, part four of this act.

Surcharges prohibited.

(45) SEC. 15. No premium or rate of premium shall hereafter be charged, published, or put in force by any insurance company or insurer on policies issued on Michigan risks which premium or rate of premium includes any surcharge or other charge in addition to the normal rate applicable to the particular risk. Any insurance company or insurer violating the provisions of this section shall be liable to the penalty prescribed in section thirteen of this chapter.

Penalty.

Added 1919, (ex. sess.), Act 4.

PART TWO.—GENERAL REGULATIONS.

CHAPTER I.—INCORPORATION OF COMPANIES AND CORPORATE MANAGEMENT.

Procedure to incorporate.

(46) SECTION 1. No insurance company, association, or other form of corporate body, shall hereafter be incorporated in this state for the purpose of transacting any form of insurance or surety bonding business, without complying with the procedure prescribed in this chapter.

Sec. 8 of chap. 1, part 1, Act 84, P. A. of 1921 (corporation code), as amended by act 20 of the 1st ex. sess. of 1921, expressly exempts from its provisions insurance corporations, fraternal benefit societies, etc.

Under the provisions of sec. 7 of Act 85, P. A. 1921, as amended, all Michigan insurance corporations organized for profit, are required to file an annual report with the secretary of state during the months of July or August, upon forms provided.

Articles of association, contents.

(47) SEC. 2. The persons so associating shall subscribe articles of association, which shall contain:

First, The names of the associates, and their places of residence respectively;

Second, The name by which the incorporation shall be known, which if it be upon the mutual plan shall contain the word "mutual;"

Third, The purposes of the incorporation and the reference to the chapter and part of this act under which such

purposes are enumerated and under which such company intends to operate;

Fourth, The manner in which the corporate powers are to be exercised; the number of directors and other officers; the manner of electing the same, and how many of the directors shall constitute a quorum, and the manner of filling all vacancies;

Fifth, The amount of capital stock, if any, and what proportion is to be paid in before the corporation shall commence business;

Sixth, The time for the holding of the annual meetings of the corporation;

Seventh, Any terms and conditions of membership therein which the incorporators may have agreed upon, and which they may deem important to have set forth in said articles;

Eighth, Any other terms and conditions prescribed by law for such class of company of insurance;

Ninth, If a mutual company operating on the assessment plan, the number of classes or divisions of members therein, and the object or purpose of such classification or division, all of which shall be definitely and correctly stated; in what manner assessments, premiums or payments are to be required from the members, the purpose and objects for which the moneys so realized are to be appropriated, and the names and objects of each fund into which any such money shall be paid.

Where the articles of association provide for the payment of policies only in the event of the death of the insured, the company cannot issue a policy payable upon the occurrence of total disability.—Preferred Mass. Mut. Life Ins. Co. v. Giddings, 112 / 401. The articles of association, by-laws and certificates of membership determine the rights of the members and the association, and may be enforced by the parties and beneficiaries according to their respective rights as therein provided.—Union Mut. Ass'n v. Montgomery, 70 / 594. The statute under which the association is organized, in force when the insurance contract is made, forms part of the contract and governs as to its construction.—Silvers v. Mich. Mut. Ben. Ass'n, 94 / 39. A mutual life insurance company may, where its articles of association are framed accordingly, write whole-life policies, term insurance, advance payment insurance and insurance upon joint lives.—Home Life Assurance Co. v. Maynard, 112 / 497. Provisions in the articles and by-laws of a fraternal benefit association, creating a tribunal of its members to hear and determine all claims of members against it and declaring its decisions final, are valid and form a part of the voluntary contract of membership.—Derry v. Great Hive L. O. T. M., 135 / 494; O'Neill v. Ancient Order of Gleaners, 176 / 628. Finality of decision.—Barker v. Great Hive L. O. T. M., 135 / 499.

The failure to file certain copies of articles of association, as required by law, by a corporation in being, cannot be set up by private persons to avoid corporate contracts. Such failures are, at most, but violations of duty to the state, which the state can punish for forfeiture or penalties.—Jhons v. People, 25 / 502.

(48) SEC. 3. Such articles shall be acknowledged by the persons signing the same before some officer of this state authorized to take acknowledgments of deeds, who shall append thereto, his certificate of acknowledgment. All such articles shall be in triplicate and upon proper forms as prescribed by the commissioner of insurance as hereinafter provided in this chapter.

Acknowledgment of.

Issued in triplicate.

(49) SEC. 4. The said articles of association shall be submitted to the attorney general for his examination and if found by him to be in compliance with this act, he shall so certify to the commissioner of insurance. The said articles shall be filed in triplicate with the commissioner of insurance,

Examination of.

To be filed in triplicate.

one copy for his office files, and one copy to be certified for filing with the county clerk and one copy to be certified by the commissioner of insurance for the records of the company itself. Upon receiving the certificate of the attorney general, as aforesaid, the commissioner of insurance shall cause an examination to be made in respect to the capital stock and shall see that the requirements as to the same have been fully complied with; and if the company is organized to do business on the mutual plan, that the company is in the actual possession of the applications for insurance, required of it, or the amount of assessments or reserve and other capital, as the case may be, and that it was shown to him by the affidavit of the president and secretary of the company that such applications have been taken in good faith and not merely colorably, and that such officers believe it to be the intention of each of the applicants to receive and pay for policies thereon, when the company shall be prepared to issue the same. The commissioner of insurance may perform such examination by deputy or by any examiner in his office, or by the appointment of a special examiner, who shall certify to the facts as found. Upon being satisfied that all requirements of this act precedent to commencing business have been fully complied with, applicable to such company, the commissioner of insurance shall deliver to such company a certificate of authority to commence business and issue policies.

Examination of capital stock, etc.

Who to perform, etc.

Certificate of authority.

Failure to file a certified copy of the articles of association with the county clerk cannot be set up by private persons to avoid contracts.—Jhons v. People, 25 / 499.

This section applies to domestic corporations and prescribes what shall be "their authority to commence business and issue policies."—Seamans v. Temple Co., 105 / 403. It is the policy of this state to limit the business of insurance to such corporations, domestic and foreign, as shall be authorized by the commissioner of insurance to do business, after compliance with certain regulations and conditions prescribed by law.—Id.

The provision as to filing the charter and certificate was not designed to avoid contracts, but simply to facilitate the means of proving the corporate existence. —Jhons v. People, 25 / 499. Even if the filing were necessary to corporate existence, a party insured or dealing with the corporation could not question its existence.—Id., 502-3; Cahill v. Insurance Co., 2 Doug. 124. The insurance commissioner may be compelled by mandamus to give certified copies.—Jhons v. People, 25 / 502.

Subscription to capital stock.

(50) SEC. 5. The persons so associated shall, after the filing and approval of such articles as aforesaid, open the books of subscription to the capital stock of the corporation and may keep the same open until the whole amount specified in the articles shall be subscribed; or, if said corporation is to transact business on the mutual plan, then they shall open books to receive propositions and enter into agreements as specified in the chapter under which it intends to operate.

Am. 1919, Act 117.

Where the charter makes it the absolute right of farm owners in the county to become members on subscribing the articles and applying for insurance on prescribed terms, the secretary cannot cut off such right by refusing an actual tender from one already a member and an applicant for insurance.—Gay v. Farmers' Mut. Ins. Co., 51 / 245.

By-laws.

(51) SEC. 6. The directors or trustees of any company organized under this act shall have power to make such by-laws, not inconsistent with the constitution and laws of this state, or with their articles of association, as they may deem

necessary for the government of the officers and members of the company, and the conduct of its affairs. All by-laws of companies operating on the assessment plan, and any amendments thereto, shall be filed with the commissioner of insurance and be approved by him before becoming operative. Where filed.

(52) SEC. 7. Any company formed under this act shall have power to amend its articles of association at any annual meeting of the stockholders or members, or at any special meeting called by the directors for that purpose, but notice of any such annual or special meeting and of the purpose for which it is called shall be served on each of the stockholders, or if it is a mutual company on each of the members, either personally or by directing the same through the postoffice to the last known postoffice address of such stockholder or member at least three weeks previous to such meeting, or may publish such notice of said annual or special meeting in a newspaper printed, published and circulated within the county or counties in which said company is transacting business, at least two successive weeks prior to said meeting, the last publication to be made at least five days prior to date of holding such meeting. Such amendments shall not take effect until submitted to the attorney general and certified by him not to conflict with the constitution or laws of this state. Such amendments shall be filed in triplicate with the commissioner of insurance, one copy for his own records, one copy for the county clerk where the original copies were filed, and one copy to be returned to the company with a certified copy of the certificate of the approval of the commissioner of insurance attached thereto. All such amendments shall be upon the form prescribed by the commissioner of insurance. Amendments to articles. Notice of meeting. When effective. How filed.

Am. 1919, Act 117.
For notice required under general mutual law, see section 318.

(53) SEC. 8. All companies formed under this act shall be deemed bodies corporate and politic, in fact and in name, and shall be subject to all of the provisions of law in relation to corporations as far as they are applicable. Suits at law may be maintained by corporations formed under this act against any of its members for any cause relating to the business of such corporation; also suits at law may be prosecuted and maintained by any member against such corporations for claims which may have accrued if payments are withheld more than sixty days after such claims shall have become due. No article, by-law, resolution or policy provision adopted by any life and casualty insurance company doing business in this state prohibiting a member or beneficiary from commencing and maintaining suits at law or in equity against such company shall be valid and no such article, by-law, provision or resolution shall hereafter be a bar to any suit in any court in this state: Provided, however, That any reasonable remedy for adjudicating claims established by such company or companies shall first be exhausted Deemed bodies corporate and politic. Suits at law. Proviso.

Further proviso.

by the claimant before commencing suit: Provided further, however, That the company shall finally pass upon any claim submitted to it within a period of six months from and after final proofs of loss or death shall have been furnished any such company by the claimant.

A by-law, assented to in writing by each applicant, providing for the submission of differences to arbitration does not contravene this section.—Raymond v. Farmers' Mut. Fire Ins. Co., 114 / 386. A member of a mutual fire insurance company obligates himself to pay a proportionate share of the losses and expenses for the period during which he is insured; and if such liability has not been covered by assessment, it continues, although he may have ceased to be a member.—Farmers' Mut. Fire Ins. Co. v. Judge, 100 / 606. The receipt of past due assessments after a loss and the direction to pay the loss constitute a waiver of any forfeiture incurred by delay in paying assessments.—Farmers' Ins. Co. v. Bowen, 40 / 147. Prematurity of action against company.—Baptist Church v. Insuranee Co., 119 / 203. A lien of this kind, where the amount, inclusive of costs, is less than $100 is not within the jurisdiction of the chancery courts.—Peake v. Bradley, 121 / 182.

These associations are, strictly speaking, insurance organizations, whenever, in consideration of periodical contributions, they engage to pay the member or his designated beneficiary, a benefit upon the happening of a specified contingeney.—Rensenhouse v. Seeley, 72 / 617. A beneficiary society (organized under the act of 1869), providing only for the payment of a certain sum in case of death and for periodical payments in case of sickness or disability, is not authorized to conduct an endowment insuranee business.—Walker v. Commissioner, 103 / 344. An amendment of the articles of association of a corporation organized under the act of 1869, so as to conform to the provisions of this act made before this act took effect, was premature.—Mich. Mut. Ben. Ass'n v. Rolfe, 76 / 146. The reorganization of companies organized under the act of 1869 is not involved in a suit by a private party; the state only can inquire into that. —Meurer v. Mut. and Ben. Ass'n, 95 / 451. This act discussed.—Calkins v. Angell, 123 / 77. Rival organizations for mutual benefit insurance.—Great Hive L. O. T. M. Mich. v. Supreme Hive L. O. T. M. of World, 135 / 392. Insurable interest and selection of beneficiaries.—Dolan v. Catholic Mutual Benefit Ass'n, 152 / 266. When commissioner may refuse to grant certificate of authority to an insurance company to do business.—Am. Health & Accident Ins. Co. v. Com'r of Insurance, 154 / 193. Limitation of action, see Johnson v. Fid. & Casualty Co., 184 / 406.

Although the stipulations in a mutual fire insurance policy providing for arbitration of a claim and making the award of the arbitrators final, are valid and binding on the insured, yet, where the insurer, in carrying out the methods stipulated in the contract, acts in bad faith so as to defeat the real purpose of the arbitration, the insured has the right to ignore the proceedings, and without waiting for the award, at once commence an action at law on the policy.—Shapiro v. Patrons' Mutual Fire Insurance Co., 219 / 581.

Corporate existenee.

(54) Sec. 9. Whenever it shall be necessary, in any legal proceedings, to prove the corporate existence of any such company, a copy of the articles of association, with a certificate by the commissioner of insurance attached, that such copy is a duplicate of the copy on file in his office; and that it has been made to appear to him by the certificate of the proper county clerk, that another copy of such articles has been duly filed in the office of such clerk, and by the certificate of the state treasurer in proper cases, that the securities required to be deposited with him have been deposited, together with a certified copy of such company's certificate of authority, shall be prima facie evidence of the corporate existence of the company; and except in proceedings by or under the authority of the state, to question its corporate right by information in the nature of quo warranto or otherwise, shall be conclusive evidence of the authority of the company to issue policies and transact business as contemplated by its articles, until such authority has been terminated.

Real estate holdings.

(55) Sec. 10. No company, including fraternal beneficiary societies, formed under this act shall purchase or hold any real estate, except:

1. Such as shall be necessary for its immediate accommodation in transacting business; or

2. Such as shall have been conveyed or mortgaged to the company in good faith, by way of security for debts; or

3. Such as shall have been conveyed to the company in satisfaction for debts; or

4. Such as shall have been purchased at sales upon judgments, decrees or mortgages in favor of such company, or held by or owned by it; and all real estate obtained by virtue of any provisions of this section, except that mentioned in the first sub-division, shall be sold or disposed of within five years after the title has been perfected in such company, unless the company shall procure a certificate from the commissioner of insurance that the interest of such company will materially suffer by a forced sale, in which event the sale may be postponed for such period as the said commissioner of insurance shall direct in such certificate, not to exceed ten years in all: Provided, however, That any stock life insurance company and any stock fire or casualty insurance company, may invest not to exceed twenty per cent of its assets in a home office building, and may continue to hold the same for its use and as a source of revenue: Provided further, That no such investment shall be made unless and until a certificate of permission for the purchase of such property is granted by the commissioner of insurance after appraisal of such property by at least three property owners of the city in which the home office of such company is located, appointed by the commissioner of insurance for the purpose of such appraisal, and their certification to the commissioner of a valuation of the property at least equal to the amount which is proposed to be invested therein by such company.

Proviso, home office building.

Further proviso.

Am. 1921, Act 107.

(56) SEC. 11. The corporate existence of any company incorporated under or subject to this act shall not exceed thirty years, unless a longer term is provided in the articles of association. Any company hereafter incorporated under this act may incorporate for a period of any specific number of years, not less than thirty, or multiples of thirty, or in perpetuity, provided that the legislature may shorten such terms by future laws.

Term of corporate existence.

(57) SEC. 12. That it shall be lawful for any insurance corporation, whose term is about to expire by limitation, at any time within two years next preceding the expiration of such term, by a vote of two-thirds of its capital stock, or of its members, present and voting, as the case may be, at any annual meeting, or at any special meeting of its stockholders or members called for that purpose, to direct the continuance of its corporate existence for such further term not less than thirty years from the expiration of the existing term, as may be expressed in a resolution for that purpose. The president and secretary of such members' or stockholders' meeting shall make and sign triplicate copies of such resolution, and its passage shall be verified by the oath of such secretary attached to each of such duplicates. One of said copies shall

Renewal of corporate term, rate required.

Resolution in triplicate.

Where filed.

be filed in the office of the commissioner of insurance and one with the clerk of the county where the principal office of the corporation is located, and both shall be recorded at the expense of said corporation and the copies so filed, or the record thereof, or certified copies of either of such records, shall be prima facie evidence of the passage of such resolution and of the extension of said corporate life: Provided, That the franchise fee, which may be provided by law for new corporations, shall be paid before such term shall be extended. Such action may likewise be taken within eighteen months next after the expiration of such charter, with the consent in writing of the commissioner of insurance. The renewal term of such corporation shall begin from the expiration of the former term, and the corporation whose term has thus been renewed shall be the same corporation, and own all its property, and be subject to all its liabilities, have the same stockholders and members and the same officers. The rights of all persons interested in said corporation shall continue as before such extension. The articles of association and by-laws shall continue the same until changed or amended by the corporation in the manner required by law.

Proviso, fee.

Renewal after expiration of charter.

Am. 1923, Act 52.

Duty of trustees at expiration of corporate life.

(58) SEC. 13. In case the stockholders or members thereof shall not, before the expiration of such corporate existence, organize a new corporation for the same purposes, on the basis of receiving the assets of the old corporation, and assuming the performance of all its existing contracts and policies, the officers of such corporation, at the expiration of its corporate life, shall be trustees for the purpose of keeping its funds invested for the security of policy-holders, settling its affairs, and fulfilling and discharging its obligations, and as such, shall be under the control and direction of the proper circuit court in chancery, or other equity court, as in the case of other trustees; but the officers of such corporation shall not, at the time of the termination of the corporate existence, or in anticipation thereof, make or declare any dividend, or, except in satisfaction of the demands of creditors or policy-holders, make any other disposition of the assets of the corporation, or of any part thereof, which shall leave the available amount of such assets below the amount of existing debts and of the net value of outstanding policies, to be determined as hereinbefore provided; and any such attempted dividend or distribution shall be void, and may be enjoined on the application of the commissioner of insurance; and such officers, before entering upon their duties as such trustees, shall give bond to the people of the state to the satisfaction of the commissioner of insurance and to be filed with him, conditioned for the faithful discharge of their duties as such; and they shall be at all times subject to the supervision of the commissioner of insurance, in the same manner that corporations are under the provisions of this

Dividends, not to be declared.

Bond of trustees.

act; but such trustees shall not be at liberty to make dividends among stockholders, nor to members, unless in reduction of premiums on outstanding policies, except under the order of the proper court of equity; nor shall such court be at liberty to order any such dividends as shall at any time reduce the available assets of the company below the amount of existing debts and the net value of outstanding policies, to be determined as hereinbefore provided.

(59) SEC. 14. In all companies organized under or subject to this act, the trustees or directors shall be actual residents of the United States, and the majority shall be residents of the state of Michigan: Provided, however, That each director of a stock insurance company shall be the owner in his own right of at least ten shares of the capital stock of such company, and of a mutual or co-operative assessment company, shall be a subscriber for insurance therein. Trustees, who to be. Proviso, to be stockholders.

(60) SEC. 15. Special meetings of the stockholders or members of any corporation organized under or subject to this act may be called by the directors or trustees at any time when deemed advisable, and notice of all meetings of the members or stockholders shall be given by mailing to each member or stockholder a copy of such notice, postage prepaid, directed to his last known postoffice address at least twenty-one days prior to the time fixed for such meeting, and such notice shall state the time and place, and if it be a special meeting, the purpose of such meeting. Special meetings. Notice of all meetings. If special.

(61) SEC. 16. It shall be lawful for any insurance company organized or doing business under this act, or incorporated under any law of this state, to invest its capital and the funds accumulated in the course of its business or any part thereof: Investment of funds.

First, In bonds or notes secured by mortgage lien upon unencumbered real estate worth at least double the amount loaned; Mortgages.

Second, In the bonds of the United States, or any state or territory of the United States, or in the valid public debt or bonds of any city, county, township, village or school district of any state or territory in the United States: Provided, That such state or municipality has not, in the ten years preceding the time of such investment, repudiated its debt or failed to pay the same or the interest due thereon, or upon any part of such debt: And provided further, That the net indebtedness of said city, county, township, village or school district shall not exceed eight per cent of the assessed valuation of all the real state [estate] therein; Bonds. Proviso. Further proviso.

Third, (a) In the lawful authorized first mortgage bonds of any steam railroad corporation organized under the laws of any state of the United States; Railroad bonds.

(b) In the first mortgage bonds of railway companies whose lines are leased or operated or controlled by any railroad company specified in paragraph three (a), if said bonds be guaranteed both as to principal and interest by the rail-

way company to which said lines are leased, or by which they are operated or controlled;

(c) In the lawful authorized first mortgage bonds of any steam railway incorporated under the laws of any state of the United States, issued for the purpose of retiring all prior mortgage indebtedness on so much of the property of such company as is covered by the mortgage securing such issue of bonds, and further providing for additions, extensions or improvements;

(d) In the lawful authorized first mortgage bonds of any electric railway, street railway, gas or electric light or power company organized under the laws of the state of Michigan;

Steamship bonds. Proviso.

(e) In the lawful authorized first mortgage bonds of steamship companies: Provided, That any such company mentioned in the foregoing sub-divisions has for five years prior to the time of making such investment by said insurance company paid annually dividends equal to not less than four per cent of its entire capital stock, and has not during said period defaulted in the payment of the matured principal or interest of any debts incurred by it and secured by mortgage or trust deed upon its property or any part thereof, or in the payment of any part of the matured principal or interest of any bonds guaranteed or assumed by it, and provided that in the case of electric railroad, street railways, gas or electric light or power companies above referred to, the cost of construction and equipment of the plant of such company shall exceed by at least fifty per cent the amount of the entire bonded indebtedness of such company, and the plant and equipment shall be free from all other liens and incumbrances, and the said company shall have earned during the period it has been in operation more than enough to pay all interest accrued on all said bonds and not less than four per cent per annum dividends upon its entire capital stock outstanding: Provided further, That in the case of first mortgage bonds of steamship companies such mortgages shall be upon steel steamships or steamships for the carriage of freight, or package freight and passengers combined, upon the great lakes and connecting waters of at least five thousand tons carrying capacity each: And provided further, That such bonds are issued at the time of the completion and enrollment of such steamship or steamships, or within one year thereafter, and that by the express terms of said mortgage, at least ten per cent of the total issue of said bonds shall be retired annually beginning within two years from the date of said bonds, and that the mortgage liability against the said property shall not exceed one-half of its actual cost, and that the trustee of such mortgage shall be required to protect the lien of said mortgage by attending to the recording thereof and by causing property covered by said mortgage to be insured against all risks on vessel property ordinarily covered by such insurance, including marine risks and disasters, general and particular average, collision liability, protection and indemnity insurance, and insurance against

Further proviso.

Further proviso.

liability for injury to persons, in insurance companies and under forms of policies approved by the trustee, for an amount equal to the full insurable value of such steamship, such insurance to be made with loss payable to said trustee, and policies deposited with it; and that, by the terms of such mortgage the mortgagor shall not suffer such steamship to become indebted in an amount exceeding five per cent of the original amount of the principal of said mortgage at any time, and that the failure of the mortgagor to forthwith procure the release of such steamship or steamships from mechanics', laborers', admiralty, statutory, or other liens, claims or charges against such steamship, shall constitute a default in the provisions of such mortgage: Provided further, that as to any bonds mentioned in this sub-division they shall have been first approved by the securities commission, created by section sixty-seven, act number two hundred sixty-two of the public acts of nineteen hundred five;

Further proviso, approval of bonds.

Fourth, In any negotiable paper or other evidences of indebtedness secured by any of the above mentioned classes of security;

Collateral loans.

Fifth, Upon negotiable notes secured by pledge of stock of national or state banks, which have a surplus of twenty-five per cent more than the capital: Provided, That such loans shall not exceed eighty-five per cent of the market value of the stock, and that the total amount of the loan on bank secured collateral shall not exceed fifteen per cent of the capital and surplus of the insurance company: Provided further, That not more than one-fourth of the capital and surplus of any insurance company shall be loaned on or invested in the bonds of any one steam railroad, and not more than one-tenth of the capital and surplus shall be loaned on or invested in the bonds of any one railway corporation other than a steam railway, and not more than one twentieth of the capital and surplus shall be loaned on or invested in the bonds of any one company or corporation other than railroads, and not more than one-tenth of the capital and surplus shall be loaned to any one person, corporation or firm on collateral pledges;

Collateral loans secured by bank stock.

Proviso.

Further proviso.

Sixth, In the farm loan bonds to be issued by the federal land banks operating under the act of congress approved July seventeen, nineteen hundred sixteen;

Farm loan bonds.

Seventh, In such governmental securities of this or any foreign government, or governmental subdivisions thereof, not otherwise provided for herein, as may be first approved by the securities commission herein above referred to and the commissioner of insurance and subject to such limitations as are herein prescribed for other government and municipal securities:

Other governmental securities.

Provided, That any insurance company of this state owning or possessing any bonds, stocks or other securities not in conformity with the provisions of this act shall dispose of such securities within five years from the date of the passage of this act.

Proviso.

The securities commission referred to in the last proviso of the third sub-division of this section is the "Michigan Securities Commission," as last created and provided for by Act No. 220, P. A. 1923. The commission, as now constituted, has three members, and maintains an office at Lansing, Michigan.

Forms for articles.

(62) SEC. 17. The commissioner of insurance shall prepare and keep on hand blank forms of articles of association for companies desiring to incorporate under this act; and forms covering the procedure for amending such articles, which forms may be had on application, and shall be used by all companies hereafter incorporated or amending their articles of association.

Adoption of name.

(63) SEC. 18. No company formed under this act shall assume any name which is the same as or closely resembles the name of any other corporation doing business in this state, and every insurance company shall transact its business under its own name, and shall not adopt any assumed name excepting that any corporation may by amending its articles of association, change its name or take a new name.

Filing fee.

(64) SEC. 19. Every insurance company hereafter organized in this state, and every foreign insurance company on being admitted to do business in this state, shall pay to the commissioner of insurance, a filing fee of twenty-five dollars, provided that domestic mutual insurance companies, doing business on the assessment plan, shall only be required to pay a filing fee of ten dollars. Every insurance company shall pay to the attorney general, for the examination of its articles of association or any amendments thereto, the sum of five dollars. All such fees shall be covered into the state treasury for the benefit of the general fund.

Fee for examination of articles.

Disposition of.

Consolidation or reinsurance.

(65) SEC. 20. Any corporation organized under the laws of this state and transacting business under the provisions of this act may consolidate with or reinsure all or any part of its outstanding risks with any corporation of like character authorized to transact business in the state of Michigan. When any such corporation proposes to consolidate with or reinsure its outstanding risks with any other corporation, it shall first present its petition to the commissioner of insurance, setting forth the terms and conditions of the proposed consolidation or reinsurance. After the presentation of the petition as aforesaid, any contract of consolidation or reinsurance must be approved by the affirmative vote of not less than two-thirds of the capital stock if it be a stock corporation, or two-thirds of the members voting in person or by proxy if it be a mutual corporation, at a regular or special meeting of the stockholders or members, but notice of such meeting and of the proposed consolidation or reinsurance shall be served on each of the stockholders or members, as the case may be, either personally or by directing the same through the postoffice to the last known postoffice address of such stockholder or member at least three weeks previous to such meeting. Such contract shall not become effective until finally approved by the commissioner of insurance. Any public official holding securities deposited by such corporation so consolidated or reinsured, which se-

Petition to commissioner.

Approval by stockholders.

Final approval.

curities, under the terms of the consolidation or reinsurance contract, pass to any other corporation assuming the liabilities for which said securities are held, shall upon the written order of the commissioner of insurance deliver the same to the corporation entitled thereto by the terms of such contract. Nothing in this section shall prevent any corporation from reinsuring a fractional part of any individual risk.

Order for delivery of securities.

Added 1919, Act 362.
See Act 388, P. A. of 1921, compiler's secs. 355-58.

(66) SEC. 21. The foregoing section shall not apply to any company, association or society doing business under the provisions of chapter three or four, part three of this act.

Companies exempted.

Added Id.

CHAPTER II.—ADMISSION OF FOREIGN INSURANCE COMPANIES.

(67) SECTION 1. No foreign insurance company, whether corporate or otherwise, shall be permitted to do any form of insurance business in this state without a certificate of authority from the commissioner of insurance, nor for any purpose, nor to carry on any class of insurance which is not regulated by this act. No certificate of authority to transact any kind of insurance in this state shall be issued to any foreign company or association until such company shall file with the commissioner of insurance an application therefor upon such form as the commissioner shall prescribe. Such application shall be accompanied by a copy of such company's charter, compact or articles of association or agreement, and by-laws, duly certified by the commissioner of insurance or corresponding officer of the state of origin or entry, together with a sworn statement of such company's business affairs up to any date required by the commissioner of insurance of this state to be furnished him, and any other information, under oath or otherwise, that the commissioner of insurance may demand of such applicant. The commissioner of insurance shall examine such application and if satisfied that such applicant is possessed of the capital and assets required of like companies organized in this state, is authorized to do the kind or class of insurance it seeks to transact, and has complied in all other respects with the laws of this state, as applicable thereto, he shall issue his certificate of authority to such applicant. All certificates of authority issued to foreign insurance companies shall expire on the last day of February of each year, and be renewed annually upon full compliance with this act.

Foreign company.

Application for certificate of authority.

Copy of charter, etc., to accompany.

Commissioner, to examine.

To issue certificate.

When to expire.

For admission requirements under the general mutual law, see section 333.
A state has the right to impose conditions, not in conflict with the constitution or the laws of the United States, to the transaction of business within its territory

by an insurance company chartered by another state, or to exclude such company from the territory, or, having given a license, to revoke it with or without cause.—Doyle v. Continental Ins. Co., 94 U. S., 535.

An insurance corporation organized in another state can be admitted to do business in this state only upon such terms as this state may impose.—Pollock v. German Fire Ins. Co., 132 / 225. No foreign insurance company, however formed or created, can directly or indirectly take any fire risks or transact any business within this state, unless authorized so to do.—People v. Howard, 50 / 248; Hartford Fire Ins. Co. v. Raymond, 70 / 501. Submission to the exclusive jurisdiction of the courts of this state, by a foreign corporation, is a waiver of its right, as a quasi citizen of another state, to remove causes to the federal courts.—People v. Judge, 21 / 577; Home Ins. Co. v. Davis, 29 / 238. But see Ins. Co. v. Morse, 20 Wallace, 445, and Hartford Fire Ins. Co. v. Raymond, 70 / 503. In an action upon a policy of a foreign insurance company, its authority to do business need not be proved and the company is estopped from denying its authority and defending upon such grounds.—Clay F. & M. Ins. Co. v. Huron S. & L. Co., 31 / 346.

The state has the power to prescribe the conditions upon which individuals shall have the right to transact the business of insurance within its borders, so long as it does not violate the federal constitution by discrimination against citizens of other states.—People v. Gay, 107 / 422. A foreign mutual company, not authorized to do business in this state, cannot maintain a suit to collect assessments due on policies, etc.—Swing v. Weston Lumber Co., 140 / 344; Swing v. Cameron, 145 / 175.

Capital and assets.

(68) SEC. 2. Every foreign insurance company, doing business in this state, shall be possessed of such an amount of capital and assets as are required of, and computed by the same rules as are applied to, like domestic companies, and the commissioner of insurance shall not authorize any foreign insurance company to transact any kind of insurance in this state unless and until such company is possessed of such required amount of capital and assets: Provided, however, That such capital and assets may be invested in conformity with the laws of the state or country under which such company is organized.

Proviso, how may be invested.

Supervision and examination.

(69) SEC. 3. The commissioner of insurance shall have the same supervision and make the same examination of the business and affairs of every foreign insurance corporation doing business in this state, as of domestic insurance corporations, doing the same kind of business, and of its assets, books, accounts and general condition. Every such foreign corporation and its agents and officers shall always be subject to and be required to make the same statements and answer the same inquiries and be subject to the same examinations, and, in case of default therein, to the same penalties and liabilities as domestic insurance corporations doing the same kind of business, or any of the agents or officers thereof, are or may be liable to under the laws of this state or the regulations of the insurance department. The commissioner may, whenever he deems it necessary, either in person or by a proper person appointed by him, repair to the general office of such foreign corporation, wherever the same may be, and make an investigation and examination of its affairs and condition. He may cancel and revoke the certificate of any such foreign corporation refusing or unreasonably neglecting to comply with the provisions of this section, or to allow the examination herein provided for to be made, and prevent such corporation from further continuance in business in this state. No such corporation shall transact any business in this state not specified in the certificate of authority granted by the commissioner.

Statements.

Penalties.

Commissioner may investigate affairs.

Revocation of certificate.

(70) SEC. 4. That every insurance company, or association, not organized under the statutes of this state shall also, as a condition precedent to doing business in this state, appoint an agent or attorney, resident herein, upon whom all lawful process against the company may be served with the like effect as if served upon the company in the manner provided by law, and said appointment shall stipulate and agree, on the part of the company making the same, that service of lawful process against such company upon such agent or attorney shall be valid service upon such company; and shall likewise file with the commissioner of insurance its irrevocable written stipulation, duly authenticated by the company, stipulating and agreeing that any legal process affecting such company, served on the insurance commissioner or his deputy, shall have the same effect as if personally served on the company or its authorized attorney in this state. A copy of such appointment of an attorney or agent duly authenticated, shall be filed with the commissioner of insurance and shall not be revoked until the same power is given to another resident and a like copy filed as aforesaid. Service upon such agent or attorney or the insurance commissioner shall be deemed sufficient service upon the company.

Resident attorney.

Service of process upon.

Written stipulation.

Copy of appointment, where filed.

See McLaughlin v. Aetna Life Ins. Co., 221 / 484.

(71) SEC. 5. No foreign life insurance company shall be at liberty to transact the business of life insurance within this state and no foreign insurance company shall be at liberty to transact the business of casualty insurance within this state until such company, in addition to the requirements now made by law, shall have deposited with the state treasurer at least one hundred thousand dollars, or in case of a foreign company organized to insure on the monthly payment premium plan any person or persons against bodily injury or death by accident and against disability on account of sickness, at least twenty-five thousand dollars, of the like securities required to be deposited by similar domestic companies formed under or subject to this act, which shall be held as security for any loss suffered by policy-holders of said company or companies, upon the same terms and conditions and with the same authority of sale or collection to satisfy judgments as are set forth in this act with respect to domestic companies: Provided, however, That when, by the statutes of any other state, life insurance companies and casualty insurance companies organized or doing business therein are required to keep on deposit with the state treasurer, commissioner of insurance or other state officer securities for the protection of policy-holders generally and any such company shall furnish to the commissioner of insurance of this state the certificate of the proper officer of such state, showing the amount and character of the securities so deposited with him, and it shall appear therefrom that the said securities are equal in market value and availability to one hundred thousand dollars and that a portion

Deposit required of life or casualty company.

Of health and accident on monthly payment plan.

Proviso, when deposit not required.

thereof equal in market value to fifty thousand dollars is of stocks or bonds of the United States, or of this state, or of any city or county in this state authorized by law to issue the same, or of state, county or city bonds or of stocks of the state where such company or association is organized, or of bonds or mortgages on improved real estate worth double the sum loaned thereon, and it shall further appear from the laws of such state that the securities so deposited are subject to be made available to satisfy judgments of policy-holders in any manner corresponding to that provided for the care of securities deposited under this act, the commissioner of insurance shall thereupon be authorized to issue to such company, subject to the provisions herein relating to applications, an authority or license to transact the business of life insurance or casualty insurance, as the case may be, within this state without any such deposit of securities with the state treasurer of this state as is above provided:

Proviso, idem.

Provided further, That when, by the statutes of any other state, casualty insurance companies doing business therein or organized to insure on the monthly premium payment plan any person or persons against bodily injury or death by accident and against disability on account of sickness with the capital stock of not less than twenty-five thousand dollars are required to keep on deposit with the state treasurer, commissioner of insurance or other state officer securities for the protection of policy-holders generally, and any such company shall furnish to the commissioner of insurance of this state the certificate of the proper officer of such state showing the amount and character of the securities so deposited with him, and it shall appear therefrom that the said securities are equal in market value and availability to twenty-five thousand dollars and that a portion thereof equal in market value to twelve thousand five hundred dollars is of stock or bonds of the United States, or of this state, or of any city or county in this state authorized by law to issue the same or of state, county or city bonds, or of stocks of the state where such company or association is organized, or of bonds or mortgages on improved real estate worth double the sum loaned thereon, and it shall further appear from the laws of such state that the securities so deposited are subject to be made available to satisfy judgments of policy holders in any manner corresponding to that provided for the care of securities deposited under this act, the commissioner of insurance shall thereupon be authorized to issue to such company, subject to the provisions herein relating to applications, an authority or license to insure on the monthly payment premium plan any person or persons against bodily injury or death by accident and against disability on account of sickness within this state without any such deposit of securities with the state treasurer of this state as is above provided:

Proviso, companies under foreign governments.

Provided further, That such insurance companies organized under the laws of any foreign government may be required to keep on deposit with the

state treasurer of this state, or with some state officer of one of the United States, or with trustees for the benefit of policy-holders resident in the United States, said trustees being residents or corporations of this or some other state, securities in which any such company is authorized to invest to an amount at least equal to the net value of the policies issued by said company to residents of these United States as computed by the commissioner of insurance.

Am. 1919, Act 227.

Any mutual company, when admitted to do employer's liability insurance.

(72) SEC. 6. That when by the statutes of any other state any mutual company thereof is authorized to engage in the business of employer's liability insurance, and such company shall have entered into agreements for insurance, with at least twenty-five applicants covering a payroll of not less than an aggregate annually of two and one-half million dollars, and shall have contingent assets of not less than two hundred thousand dollars, and not less than twenty thousand dollars in addition thereto, either of cash on deposit or securities of equal value immediately convertible into cash, and such company shall be confining its business to the risks of one class of industry or trade having common interests of trade relationships and common hazards, such company, upon complying with the provisions of this chapter with relation to application for admission, may be admitted to do such employer's liability insurance in this state. It shall be lawful for any mutual liability company organized under the laws of any other state, being possessed of at least five hundred thousand dollars of actual net cash assets to transact the business of employer's liability insurance in this state, upon complying with all other provisions of this act relative to the operation of foreign life and casualty companies transacting liability insurance in this state and to provisions of this chapter with relation to the application to be admitted into this state.

Mutual liability companies.

Mutual fire companies, risks upon mills, factories.

(73) SEC. 7. Any mutual fire insurance company organized under the laws of any other state, possessed of not less than two hundred thousand dollars in premium notes (face value) to solvent parties and not less than ten thousand dollars, either of cash on deposit or securities immediately convertible into cash for that amount, which would or shall limit its business to the class of risks hereinafter named, may be admitted to take risks upon mills, factories, and their accessories, such as elevators, warehouses, lumber yards, stores, and other property forming a part of such manufacturing property, and transact such business in this state, and any mutual insurance company organized under the laws of any other state possessed of not less than one hundred thousand dollars in premium notes (face value) of solvent parties and not less than ten thousand dollars, either of cash on deposit, or securities immediately convertible into cash for that amount, which would or shall limit its business to the class of risks hereinafter named, may be admitted to

Any mutual company, risks upon retail implement, hardware.

take risks upon buildings occupied as retail implement or hardware stores or warehouses, and on the stocks therein contained, including such goods and merchandise as are usually kept for sale by retail hardware or implement dealers, on complying with the provisions of this act applicable to mutual fire insurance companies organized under chapter one of part four of this act, and subject to the provisions made herein as to foreign insurance companies generally.

Provisions applicable.

Fire or fire and marine, conditions of admittance.

(74) SEC. 8. That whenever any fire or fire and marine insurance company, corporation, association, partnership, or individuals incorporated by or under the laws of any foreign government shall have securities deposited in any state of the United States, in accordance with the laws thereof, for the sole benefit and security of the policy-holders of such company or corporation residing in the United States, to the amount of two hundred thousand dollars, and shall make and execute, under oath, a report of its financial standing, and of such securities, attested by the trustees thereof, which trustees shall be actual residents of the United States, together with a full statement of the business of such insurance company or corporation in the United States for the year next preceding such statement, in the same manner and form and at the same time as is now required by law of insurance companies of other states of the United States; then and in that case it shall be lawful for the commissioner of insurance to issue to such insurance company or corporation a certificate of authority to transact the business of fire or fire and marine insurance in this state, subject to the laws thereof: Provided, That such securities so deposited are made available to the citizens of this state, under the laws of the state in which said securities are deposited. In estimating the financial standing of such companies or corporations, such deposit of two hundred thousand dollars shall be considered the cash capital of the company. The managers, resident directors, resident secretary, or general agents for the United States shall, for the purposes hereof, be deemed the legal and proper officers of such insurance company or corporation, and such company or corporation shall file with said insurance commissioner its consent thereto.

Security of policy-holders.

Proviso.

Estimating financial standing.

What deemed legal officers.

Prussian Nat'l Ins. Co. v. Eisenhardt, 153 / 198.

"Lloyds" plan.

(75) SEC. 9. That whenever any number of individuals, citizens of the United States, associating themselves within this state or elsewhere for the purpose of doing an insurance business upon the plan known as "Lloyds," whereby each becomes liable for a proportionate part of the whole amount insured by a policy executed by them, shall deposit with any bank or trust company of the United States, approved by the commissioner of insurance of this state, two hundred thousand dollars in cash or securities, approved by the commissioner of insurance, for the security and benefit of the holders of policies issued by them, and shall cause a report to be made under oath of their financial standing, and of the

Deposit.

Approval.

Report.

character and the value of the securities constituting the two hundred thousand dollars aforesaid, which report shall be attested by the general manager or attorney in fact of said individuals, in the same manner and form and at the same time as is herein required of insurance corporations organized under the laws of other states or countries, then and in that case the commissioner of insurance shall issue to said individuals under the associate name which they may or shall adopt, a certificate of authority to transact the business of insurance, in this state, subject to the laws of this state governing fire insurance companies of this and other states authorized to do business in this state. No association of underwriters authorized to do business in this state on the Lloyds plan shall expose themselves to loss on any one risk to an amount in excess of one-fifth of their cash and invested assets including therein the underwriting liability of the individual underwriters, unless any excess shall be promptly reinsured by said underwriters.

Certificate of authority.

Maximum single risk.

(76) SEC. 10. It shall be lawful for such insurance company organized under the laws of any other state and authorized by law to transact the business of insuring motor cars and other vehicles against loss or damage by fire, loss or damage while being transported in any conveyance by land or water, loss or damage by theft, robbery or pilferage, loss or damage sustained by collision with any object, moving or stationary, and loss or damage done to property by such motor cars and other vehicles through the operations thereof, to do the business of insuring automobiles and other vehicles against the hazards herein enumerated only in this state with the consent of the commissioner of insurance of this state, upon filing the statements, making the applications and complying in all respects so far as applicable with the provisions herein relating to foreign fire insurance companies.

Automobile insurance, when may do.

(77) SEC. 11. That no fire, fire and marine, or marine and inland insurance company or association not organized under the laws of this state shall be permitted to do business therein under the provisions of this act, until it has filed with the commissioner of insurance an undertaking, duly executed and authenticated by the company, in such form as the commissioner of insurance shall from time to time prescribe; that it will not directly or indirectly enter into any contract, agreement, arrangement or undertaking of any nature or kind whatever with any other company, companies, association or associations, the object or effect of which is to prevent open and free competition between it and said company, companies, association or associations, or the agents of their respective companies or associations in the business transacted in this state, or in any part thereof.

Fire, marine, etc., insurance.

To file undertaking.

Certain agreements prohibited.

(78) SEC. 12. No fire, fire and marine, or marine and inland insurance company or association not organized under the laws of this state, but doing business therein, shall either directly or indirectly enter into any contract, agreement, arrangement, or undertaking of any nature or kind whatever

Compact by companies prohibited.

with any other company, companies, association or associations, the object or effect of which is to prevent open and free competition between it and said company, companies, association or associations, or between the agents of their respective companies or associations in the business transacted in this state, or in any part thereof.

What constitutes a Michigan contract.—Dolan v. Sup. Coun. C. M. B. A., 152 / 266.

Compact by agents prohibited.

(79) SEC. 13. It shall not be lawful for the agent of any fire, fire and marine, or marine and inland insurance company or association not organized under the laws of this state, but doing business therein, to enter into any contract, agreement, arrangement, or undertaking of any nature or kind whatever with the agent of any other such company, companies, association or associations, the object or effect of which is to prevent free and open competition between the companies or associations represented by said agents in the business transacted in this state, or in any part thereof.

Unlawful solicitation.

(80) SEC. 14. It shall not be lawful for any person or persons as agent, solicitor, broker, surveyor, or in any other capacity, to transact or to aid in any manner, directly or indirectly, in transacting or soliciting within this state, business for any fire, fire and marine or marine and inland insurance company or association not incorporated by the laws of this state, or in any other capacity to procure or assist to procure a fire or inland marine policy or policies of insurance in any company or association which is violating the provisions of sections twelve or thirteen of this chapter, or whose agent or agents are violating the provisions of section thirteen hereof.

Names not to be similar.

(81) SEC. 15. No foreign insurance company shall be admitted to do business in this state whose name is the same as or closely resembles the name of any other company organized under or admitted to do business under the laws of this state.

Solvency a condition to admittance or renewal.

No foreign insurance company shall be admitted to do business in this state nor given renewed certificates of authority, that is not and does not continue to be solvent.

A foreign corporation doing business in Michigan is not an organization of this state, within the prohibition of this section.—People v. Home Life Assurance Co., 111 / 405; Great Hive v. Supreme Hive, L. O. T. M., 135 / 392.

Foreign life or casualty on cooperative assessment plan.

(82) SEC. 16. No corporation or association organized or doing business under or by virtue of the laws of any other state or territory of the United States or District of Columbia, or foreign country, for the purpose of insuring life or furnishing sickness or accident indemnity, upon the co-operative assessment plan, shall be authorized to do business in this state, unless the state or territory of the United States or District of Columbia, or foreign country, under whose laws such corporation or association is organized, shall extend the right to such corporations in this state to do business in such state or territory of the United States or District of Columbia, or foreign country, upon similar condi-

Reciprocal provision.

tions to those in this act prescribed. Every foreign co-operative company insuring life shall have its business valued and shall maintain reserves as required of fraternal beneficiary societies under sections twenty-three and twenty-three-a of chapter four, part three, of this act. Valuation and reserves of cooperative life companies.

(83) SEC. 17. Taxation of foreign insurance companies. Every foreign insurance company, of the classes herein enumerated, admitted to do and doing any insurance business in this state, shall, as a condition precedent to the privilege of doing business, pay to the treasurer of the state of Michigan, on the first day of January, of each year, or within sixty days thereafter, (subject to the retaliatory provisions herein before provided) a tax upon its said business written in this state under the authority of the commissioner of insurance hereof, for the year ending December thirty-one, of the preceding year, computed as follows: Taxes. When to pay. Retaliatory provisions.

First, Old line legal reserve life insurance companies, whether organized on the stock or mutual plan, a tax of two per centum on the gross premiums; Life.

Second, Mutual workmen's compensation companies, and casualty companies having a capital stock, a tax of two per centum on all premiums, deducting for premiums returned on cancelled policies, and reinsurance premiums received when the tax has been paid on the original premium; Casualty.

Third, Fire, marine and automobile insurance companies, whether stock or mutual, three per centum, on all premiums, deducting for returned premiums on cancelled policies and reinsurance when the tax has been paid on the original premiums; and in mutuals also deducting for dividends paid to members. Fire.

Such specific taxes shall be in lieu of all other taxation, whether state or local, excepting for real estate owned by such companies within this state and securities deposited herein unless exempted under the general tax laws of the state. No certificate of authority shall be granted to any insurance company or to its agents as such, that is delinquent in the payment of the taxes or penalties prescribed in this act. It is hereby required that all such companies which are represented by agents in this state, shall pay to this state an agent's license fee of two dollars for each such agent, meaning thereby each person acting as an agent, and each individual of a corporation, partnership or firm, which shall be licensed agreeable to the provisions of chapter three, part two of this act. All such license fees are hereby appropriated to the general fund of the state. Delinquents. Agent's license fee.

Am. 1923, Act 91.
For retaliatory provisions above referred to, see section 18. See section 329 for tax provisions under the general mutual law.

(84) SEC. 18. Each foreign insurance company admitted to do any insurance business in this state, and subject to any tax prescribed in this chapter, shall annually, on the first day of January, or within forty-five days thereafter, make and file with the commissioner of insurance of this state, its Tax statement.

statement showing all of the data necessary to a computation of its taxes under this chapter, upon such forms and including such information as the said commissioner may prescribe. It shall thereupon be the duty of such commissioner to compute such taxes, and deliver one copy thereof to the state treasurer and one copy to such insurance company. The failure to file such statement with the commissioner of insurance, or his failure to compute such tax or to deliver such computation, shall not, however, excuse or relieve any company from the payment of such tax as is justly due.

Commissioner to compute taxes.

Failure to file, etc.

Collection of delinquent taxes.

(85) SEC. 19. The taxes herein prescribed may be collected, in case of delinquency, by the state treasurer, out of any moneys or by the sale of any securities, deposited with him by such delinquent company, or if no securities or moneys are deposited, by a suit in any court of competent jurisdiction as for the collection of a debt to the state, and in any such suit, the computation of the insurance commissioner, duly sworn to, shall be prima facie evidence of the amount thereof.

Penalty.

(86) SEC. 20. Every foreign insurance company, from whom any tax is due, and delinquent, and having no deposit with the state treasurer, shall be liable to a penalty of ten dollars for each and every day of such delinquency from and after the first day of March thereafter, which penalty shall be added to the tax and collected in the same manner as the tax herein provided for.

Taxation premiums defined.

(87) SEC. 21. The taxes on premiums from insurance companies shall be upon the premiums which, during the year or part of the year ending on the preceding thirty-first day of December, shall have been received by any insurance company, or by any person acting as agent therefor, both upon policies issued by agents in this state, or policies issued at the office of the companies, upon application of subagents or others, or for any individuals or association of individuals, not incorporated or authorized by the laws of this state, to effect insurance against fire, inland, marine, life, casualty, or other risks, or which shall have been received by any person for such company or agent, or shall have been agreed to be paid for any insurance effected, or agreed to be effected or procured by such company or agent, or against fire, inland, marine, life, casualty, or other risks, although such companies, associations, or individuals may be incorporated or authorized for that purpose by the laws of any other state of the United States, or of any foreign government. The state treasurer, on receiving such tax from any company shall issue therefor duplicate receipts, one of which he shall deliver to the company, and the other shall be filed with said commissioner.

Tax receipts.

CHAPTER III.—INSURANCE AGENTS AND ADJUSTERS.

Sub-Division One—Agents.

(88) SECTION 1. A general, district, state or special agent is hereby defined to be a person, firm or corporation acting under authority from any insurance company, to supervise and appoint agents, inspect risks, and otherwise transact business for and as a representative of such insurance corporation. No such general, district, state or special agent not actually residing in this state shall countersign any policy or be paid any commission or compensation for solicitation based upon the premium received. An agent is hereby defined as a person, firm or corporation acting under written authority from any insurance company to solicit insurance and or write and countersign policies of insurance and collect premiums therefor. A solicitor is hereby defined as any person acting under express authority from an agent, having authority to appoint solicitors, to solicit insurance for such agent, but without the power or authority to issue or countersign policies or otherwise bind any company of which such agent may be the duly authorized representative.

General agent defined.

Non-resident agents.

Resident agent defined, powers.

Solicitor defined.

PRINCIPAL AND AGENT.—Gore v. Canada Life Ins. Co., 149 / 562; Moloney v. Germania Fire Ins. Co., 168 / 272; Vandervliet v. The Standard Accident & Ins. Co., 209 / 146.

For court decisions under the subject of agents, see respective chapters relating to the several forms of insurance.

(89) SEC. 2. Any general, district, state or special agent may represent any insurance company in such capacity when the commissioner of insurance has issued, and such agent is in possession of, a license authorizing such agent to represent such insurance company within the state of Michigan. Such license shall be issued only on the requisition of an executive officer or head of a department of such insurance company, if it be organized under the laws of any state of the United States, or of the United States manager of any foreign insurance company. It shall not be required that such agent be a resident of this state.

License for supervision only.

(90) SEC. 3. It shall be lawful for any person, firm or corporation to act as agent for any insurance company when a license shall have been issued to him or it to act as such agent, by the commissioner of insurance, which license shall set forth the name of the person, firm or corporation so authorized to act as such agent, and the name of the company for which the agent is authorized to act. Licenses for agents shall be issued only to persons who are actual residents of this state, or to corporations of this state, a majority of whose board of directors and executive officers shall be residents thereof. Such licenses may be issued on requisition

When lawful to act.

License issued to resident agents only.

How issued.

signed by an executive officer or head of a department of the insurance company for which the agent is empowered to act:

Proviso.

Provided, That the authority to make requisitions for agents' licenses may be delegated to the general, district, state or special agents of such insurance company, such delegation to be in writing signed by an executive officer or head of a foreign corporation, and filed in the office of the commissioner of insurance.

What to designate.

When such a license shall be issued to any firm or corporation, it shall designate the members of such firm or the officers of such corporation who shall be empowered to act thereunder, and only one such license shall be required for any firm or corporation.

Solicitor employment of, etc.

(91) SEC. 4. Any agent duly authorized as such, and representing one or more insurance corporations may employ such solicitors as he may desire to represent him and his agency. Such solicitors shall not represent themselves, by advertisement or otherwise, as agents of insurance companies for which their employer may be the authorized agent, and such solicitors shall in all instances represent themselves only as solicitors for said authorized agent. The fee for each

Fee.

solicitor's license shall be ten dollars. The issuance of a solicitor's license shall be limited to persons who shall be residents of the state of Michigan.

To procure license.

(92) SEC. 5. Hereafter, it shall not be lawful for any person to act in this state as general, district, state agent, agent, solicitor, or otherwise, in procuring or receiving applications or in any manner directly or indirectly to aid in transacting any business for or in behalf of any insurance company, corporation or association authorized to transact business within this state, until he shall have procured from the commissioner of insurance a license as herein provided.

Appointment of agents.

Nor shall it be lawful for any insurance company, corporation or association to appoint or employ any general, district, state or special agent or directly or indirectly to authorize any person to transact any insurance business or in any manner to receive the benefit of any business done or services rendered by any such agent or person within this state in any

Proviso, employment of attorney.

other manner than as herein provided: Provided, however, That the terms of this sub-division shall not extend to, include or prohibit the employment of or the acting by any attorney-at-law for or in behalf of any client by whom he shall have been retained.

Insurance of risks previously refused.

(93) SEC. 6. Any authorized agent of an insurance company transacting business in this state shall have the right to procure the insurance of risks or parts of risks, that have been refused by companies represented by him in other like companies duly authorized to transact business in this state, but such insurance shall only be consummated through a duly licensed resident agent of the company taking the risk:

Proviso.

Provided, however, That nothing herein contained shall be deemed to authorize the conducting of any insurance brokerage business in this state.

(94) SEC. 7. The provisions of this sub-division shall apply only to insurance companies transacting business on a stock plan, and to all mutual or co-operative life and health and accident companies, except fraternal beneficiary societies. Provisions to apply.

(95) SEC. 8. The commissioner of insurance shall have power after a hearing to refuse to grant any license requested under the provisions of this sub-division should he be satisfied that the person, firm or corporation for whom the requisition is made is not a proper or fit person, firm or corporation to be permitted to transact such business within this state, and the commissioner of insurance shall at once notify the insurance company or agent making such requisition of his refusal to issue the license and the reason therefor. The commissioner of insurance shall have the power to revoke for cause shown and upon hearing given to all parties concerned, any license issued by him under the provisions of this sub-division: Provided, That any action taken by the commissioner under the provisions of this section shall be subject to review by any court of competent jurisdiction. Refusal to issue license. Proviso, review.

(96) SEC. 9. Nothing in this sub-division shall be held to extend to or include any clerical help that may be necessary in performing any of the functions provided for agents, general, district, state or special agents nor to require such clerical help to be licensed in the same manner as their employers. No such clerical help shall solicit the business unless licensed as an agent or solicitor. Clerical help not to solicit.

(97) SEC. 10. No license shall be granted under this sub-division until the person, or if a firm or corporation, then the persons representing the firm or corporation for which requisition is made, shall have filed with the commissioner of insurance an application duly signed and verified by him, which application shall be in the following form, to-wit: Application for license.

To the Commissioner of Insurance of the State of Michigan: Form.

I hereby make application for a license to represent the ..... { Company / Agency } ....., and make the following statement on oath:

First, I will not knowingly violate any of the insurance laws of this state during the term of the license applied for, if issued;

Second, I will not knowingly deceive any applicant for insurance, or misrepresent any of the terms or conditions of any insurance policy or the financial responsibility of any insurance company;

Third, I will not persuade or attempt to persuade by any incomplete comparison or misrepresentation, any person to discontinue any insurance that he may have with any company or association during the term of such insurance for the purpose of taking insurance in any like company or association that I may represent;

Fourth, During the past year I have represented the following companies:

....
....

Fifth, I am not indebted to any insurance company or general agent by virtue of any contract as former agent except as follows:

.....

Sixth, I have had ..... years experience in the ..... insurance business and have lived in Michigan for the past ..... years;

Seventh, I expect to devote my time ..... to the insurance business;

Eighth, In what other business are you engaged and in what capacity? (Explain fully.)

Ninth, I have never had a license refused or revoked by the department of insurance of this or any other state. Except .....;

Tenth, I understand that it is against the laws of this state:

(a) To act as an insurance agent or solicitor without a license from the department of insurance;

(b) To misrepresent the conditions of any policy;

(c) To estimate future dividends that may be paid by a company;

(d) To make any discrimination between citizens of this state or to rebate any part of the premium or commission or offer any valuable consideration as an inducement to take insurance other than that clearly expressed in the policy;

(e) To twist or attempt to twist insurance policies by misrepresentation and or unfair comparisons. The commissioner of insurance shall have authority to address any additional inquiries to such applicant and the entire application shall be sworn to and signed by the applicant.

Penalty on person.

(98) SEC. 11. Any person violating any of the foregoing provisions of this chapter, shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days or by both such fine and imprisonment in the discretion of the court; and upon the conviction of any agent, state or special agent, or solicitor, of any violation of the provisions of this act, the commissioner of insurance shall suspend the authority of such agent, state or special agent, or solicitor, to transact any insurance business within the state of Michigan for a period of not less than three months; any insurance company employing an agent, state or special agent, and failing to procure a license required by this chapter, or permitting such agent, or state or special agent, to transact business for it within the state before such certificate has been procured, shall pay to the commissioner of insurance for the use of the state a penalty of twenty-five dollars for each offense, and in the event of failure to pay such penalty within ten days after notice from the commissioner of insurance, the authority of such company shall be revoked by the commissioner of insurance until such penalty is paid, and no such

Suspension of authority.

Penalty on company.

Revocation of authority.

company shall be readmitted until it shall have complied with all the terms and conditions imposed for admission in the first instance: Provided, That any action taken by the commissioner of insurance under the provisions of this section shall be subject to review by any court of competent jurisdiction. Proviso, review.

(99) SEC. 12. All licenses issued by the commissioner of insurance under any of the foregoing provisions of this chapter shall expire on the last day of February of each year and may be renewed by the commissioner of insurance under the same terms and conditions and upon the payment of the same fee as in the first instance, for one year, and from year to year: Provided, however, That the commissioner of insurance in his discretion, may omit the requirement provided for in section ten of this chapter, of the filing of the information as to the agent. Where such information has not been required by the commissioner upon the renewal of the license, it shall be lawful for the commissioner at any time to require from any company represented by such agent full information as to such agent covering the several matters provided for in section ten of this chapter, and upon refusal of any company to furnish such information as is required by the commissioner, forthwith, the license shall stand revoked. The commissioner shall prescribe the forms required in this subdivision. Term of license. Proviso. Renewal.

Sub-Division Two.

(100) SEC. 13. That the commissioner of insurance, upon the annual payment of a fee of twenty-five dollars may issue licenses to residents of this state subject to revocation at any time, permitting the person named therein to procure policies of fire insurance on property in this state in foreign insurance companies not authorized to transact business in this state, but which are duly authorized to do business in other states having insurance commissioners. Before the person named in such license shall procure any such insurance he shall in every case execute and file with the commissioner of insurance an affidavit that he is unable to procure, in companies admitted to do business in this state, the amount of insurance necessary to protect said property, and shall only procure insurance under such license after he has procured insurance in companies admitted to do business in this state to the full amount which said companies are willing to write on said property: Provided, That such licensed person shall not offer any portion of such insurance to any company which is not possessed of cash assets amounting to at least one hundred thousand dollars, nor one which has, within the preceding twelve months been in an impaired condition. Each person so licensed shall keep a separate account of the business done thereunder, a certified copy of which he shall forthwith file with the commissioner of insurance showing the exact amount of such insurance placed for How agent may write policy of unauthorized company. Affidavit, what to state. Proviso, cash assets. Account of business, what to show, etc.

any person, firm or corporation, the gross premium charged thereon, the companies in which the same is placed, the date of the policies and the term thereof, and he shall also file a report in the same detail of all such policies cancelled and the gross return premiums thereon.

See also section 128.

Bond of licensee.

Approval.

Statement of gross premiums.

(101) SEC. 14. Before receiving such license he shall execute and deliver to the auditor general a bond in the penal sum of two thousand dollars with such sureties as the said auditor general shall approve, with a condition that the licensee will faithfully comply with all the requirements of this sub-division and will file with the commissioner of insurance, in January of each year, a sworn statement of the gross premiums charged for insurance procured or placed, and the gross returned premiums on such insurance cancelled under such license during the year ending on the thirty-first day of December next preceding, and at the time of filing such statement will pay into the state treasury a sum equal to four per cent of such gross premiums less such returned premiums reported. Any such company with which such insurance shall be placed shall appoint the commissioner of insurance of this state as its attorney in fact in this state, upon whom process can be served.

Sub-Division Three—Adjusters.

Fire and compensation adjusters.

(102) SEC. 15. No person shall engage in the business of adjusting the loss or damage by fire or other hazard under any policy of insurance, nor engage in the business of adjusting claims for compensation under act number ten of the public acts of nineteen hundred twelve, first extra session, and acts amendatory thereof, for companies carrying workmen's compensation insurance, or advertise, solicit business, or hold himself out to the public as such adjuster, without first procuring a certificate of authority to act as such adjuster from the commissioner of insurance of this state.

Certificate of authority.

The commissioner of insurance shall issue such adjuster's certificate of authority to any person applying therefor who is trustworthy and competent. Every person to whom such certificate is issued shall pay to the commissioner of insurance as a license fee therefor, the sum of two dollars. This section shall not apply to any licensed agent or employe of any underwriter admitted to do business in this state by whom a policy of insurance against loss or damage by fire shall have been written upon property within this state, in adjusting loss or damage under such policy.

Fee not to apply to agents.

Suspension or revocation.

Notice.

(103) SEC. 16. Such license may be suspended or revoked by the commissioner of insurance for fraud or serious misconduct on the part of any such adjuster. Before revoking the license of any adjuster under this sub-division, the commissioner shall give notice in writing to such adjuster of the charges of fraud or misconduct preferred against him, and shall give such adjuster full opportunity to be heard in

relation to the same. Such license and certificate of authority shall, unless otherwise suspended or revoked, be in force from and after the date of the same for a period of one year and may be renewed upon the expiration thereof, by the commissioner of insurance, from year to year upon the payment of a fee of two dollars for each renewal. Term of license. Renewal.

(104) SEC. 17. Any person, partnership, association or corporation or their agents or employes violating any of the foregoing provisions of this sub-division shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one hundred dollars, or imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment in the discretion of the court. Violations. Penalty.

(105) SEC. 18. Any person who shall make any false or misleading statement for the purpose of misleading or deceiving any other person into believing that he is a public adjuster, or otherwise convey such impression by means of concealment of any fact, or who shall withhold a policy of insurance from the insured, before a full settlement is made, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding one year or by both such fine and imprisonment in the discretion of the court. False statements. Penalty.

Sub-Division Four—Insurance, Auditors, Abstractors, Counselors or Analysts.

(106) SEC. 19. It shall not be lawful for any person, firm or corporation in the state of Michigan to engage, or to advertise or to hold himself or itself out as engaged in the business of auditing or abstracting policies of life insurance or annuities, or of giving or affording any advice, counsel or opinion with respect to the benefits promised under any policy of life insurance or annuity issued or proposed to be issued by any company authorized to transact the business of life insurance in this state, or the terms, value, effect, advantages or disadvantages thereof, or, directly or indirectly, to take or receive any commission or other compensation or reward in money, or otherwise, or directly or indirectly to obtain or acquire any benefit or advantage in consideration of, return for, or as a result of, the auditing or abstracting of a policy of life insurance or annuity, or policies of life insurance or annuities, or the giving or affording of advice, counsel or opinion with respect thereto, or with respect to the plan of insurance of any such company, until a license shall have been issued to him or it by the commissioner of insurance issuing to him or it so to act. Such licenses may be issued by the commissioner for the period of one year and shall be renewed annually. The fee for each such license issued or renewed shall be ten dollars. Auditors, abstractors, etc. License. Fee.

(107) SEC. 20. No license shall be granted under this act until the person, or if it be a firm or corporation, then Application for license.

the person or persons representing such firm or corporation, applying therefor, shall have filed with the commissioner of insurance an application duly signed and verified by him or them, which application shall be in the following form, to-wit:

Form. To the Commissioner of Insurance of the State of Michigan:

I hereby make application for a license to audit and abstract policies of life insurance and annuities and to give counsel and advice with respect to such policies of life insurance and annuities, and the plans of insurance of corporations authorized to transact the business of life insurance in the state of Michigan, and make the following statement on oath:

First, I will not knowingly violate any of the insurance laws of this state during the term of the license applied for if issued;

Second, I will not knowingly deceive any applicants for insurance or misrepresent any of the terms or conditions of any policy of life insurance or annuity, or the financial responsibility or business practices of any life insurance company authorized to transact business in this state;

Third, I will not upon the basis of any incomplete comparison or misrepresentation, advise or persuade, or attempt to persuade any person to drop or discontinue any insurance that he may have with any company or association during the term of such insurance for the purpose of taking insurance in any like company or association, or otherwise.

The commissioner of insurance shall have authority to address any additional inquiries to any such applicant, and the entire application shall be sworn to and signed by the applicant.

Refusal to grant license. (108) SEC. 21. The commissioner of insurance shall have the power after a hearing to refuse to grant any license requested under the provisions of this sub-division, should he be satisfied the person, firm or corporation applying therefor is not a proper or fit person, firm or corporation to be permitted to engage in such business within this state.

Revocation. The commissioner of insurance shall have power to revoke for cause shown and upon hearing given to all parties concerned, any license issued by him under the provisions of this sub-division: Provided, That any action taken by the commissioner of insurance under the provisions of this section shall be subject to review by any court of competent jurisdiction.

Proviso, review.

Penalty for violation. (109) SEC. 22. Any person violating any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or both such fine and imprisonment in the discretion of the court, and upon the conviction of any person, firm or corporation licensed under this act, of any violation of the provisions thereof, the commissioner of insurance shall suspend the authority of such person, firm or corporation to act under such license within the state of Michigan for a period of not less than three months.

Suspension of authority.

CHAPTER IV.—MISCELLANEOUS.

Sub-Division One.

(110) SECTION 1. It shall be unlawful for any corporation, foreign or domestic, to take, receive or solicit subscriptions in this state for the capital stock of any insurance corporation or to take any part, directly or indirectly, in the formation of any insurance corporation for the purpose of controlling in any way the management thereof; and every contract, order or subscription for stock, made directly or indirectly, with such corporation, or any voting trust or other agreement hereafter made, the purpose of which is directly or indirectly to control such corporation, is hereby declared to be void. Any violation of this section shall be deemed a misdemeanor.

Unlawful control of management.

Sub-Division Two.

(111) SEC. 2. If any insurance corporation organized or operating within this state shall, by means of any advertisement, circular, notice or statement, printed or written, published, posted or circulated through and by the agency of any officer, agent or other person, or by any other means, falsely represent or hold out to the public that the capital stock of such company is greater than its actual amount, or that the accumulation of such company is greater than its actual cash or market value, or shall represent the financial condition to be other than it actually is or was at the time of making such statement, every director or officer of such company guilty of any participation therein shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment, in the discretion of the court; and if any such company, after such false advertisement, circular, notice or statement shall have been published, posted or circulated, shall receive any money, note or obligation for the payment of money, from any person, as a consideration for any insurance made or policy issued or to be issued by such company, such money, note or obligation shall be deemed and taken to have been received without consideration; and the directors of such company, and any officer or agent receiving the same, shall be jointly and severally liable in an action of assumpsit for the repayment thereof, and shall also, in like manner, be liable to the person insured for the amount of the insurance. Any such false advertisement, circular, notice or statement shall be sufficient ground for proceedings in any court of competent jurisdiction

Misrepresentation of capital stock, financial condition, etc.

Penalty.

Joint liability of directors, etc.

to forfeit the chartered privileges of such company, or for an order prohibiting the further transaction of business by it within this state: Provided, That no such forfeiture shall be declared on that ground solely, if it shall appear either that the publication was by mistake, or that the directors, officers or agents making the same have been dismissed from the service of such company, and that the company has published such true statement of its affairs as may have been directed by the insurance commissioner, or such court.

Proviso, when forfeiture not declared.

Fraudulent reports.

(112) SEC. 3. It shall be unlawful for any person in any report required by law to be made by any insurance corporation or fraternal beneficiary association, organized or authorized to do business in this state, to make any such statement or report as to fraudulently conceal the real facts, and if intentionally so made shall, if the company be organized under the laws of this state, be cause of forfeiture of the corporate franchise, and if the company be organized under the laws of any other state or government, be cause for revocation of such company's license to do business in this state by the commissioner of insurance, after hearing granted.

Forfeiture of franchise or license.

Reserve or mortality funds, certain use unlawful.

(113) SEC. 4. It shall be unlawful for any officer or agent of a fraternal beneficiary or co-operative mutual life insurance company doing business in this state to appropriate or use any portion of the reserve or mortality funds of such association for any other purpose than such as the articles of association, by-laws and contracts with members prescribe.

Penalty on officer or agent.

(114) SEC. 5. Any officer or agent guilty of any such fraudulent statement or of any intentional violation of the provisions of this sub-division, or who shall aid or abet others in any such violation, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding six months, or by both such fine and imprisonment, in the discretion of the court.

Sub-Division Three.

Anti-rebate.

(115) SEC. 6. No insurance company, association or society, by itself or any other party, and no insurance agent or solicitor, personally or by any other party, transacting any kind of insurance business shall offer, promise, allow, give, set off or pay, directly or indirectly, any rebate of, or part of, the premium payable on the policy or on any policy, or agent's commission thereon, or earnings, profit, dividends or other benefit founded, arising, accruing or to accrue thereon, or therefrom, or any other valuable consideration or inducement to or for insurance, on any risk in this state now or hereafter to be written, which is not specified in the contract of insurance; nor shall any such company, association or society, agent or solicitor, personally or otherwise, offer, promise, give, sell, or purchase any stocks, bonds, securities or any dividend or profits accruing or to accrue thereon, or other thing of value whatsoever as inducement to insurance or in

connection therewith which is not specified in the policy contract. Upon satisfactory evidence of the violation of the provisions of this section by any insurance company, association, or society, its officers, solicitors or agents, or any insurance broker, the commissioner of insurance shall revoke the certificate of authority of such offending company, association or society, its officers, solicitors or agents; and no license or certificate of authority shall be issued to such company, association or society, officers, agents, solicitors or brokers, within one year from the date of the revocation of such license or certificate of authority.

Revocation of certificate.

The buying of drinks of intoxicating liquor for defendants whom he was soliciting, by the agent of a life insurance company, where the defendants were sober and mentally normal, cannot be classed as a distinction or discrimination in favor of defendants within the purview and intent of the anti-rebate law (Act 181, P. A. 1907).—Northern Assurance Co. v. Meyer, 194 / 371.

Revocation of certificate.—Life Ins. Co. v. Ins. Com'r, 128 / 85; See Am. Health & Accident Ins. Co. v. Com'r of Ins., 154 / 193.

(116) SEC. 7. Misrepresentation and Twisting. No insurance company, association or society, or any officer, director, agent or solicitor thereof shall issue, circulate or use or cause or permit to be issued, circulated or used, any written or oral statement or circular misrepresenting the terms of any policy issued or to be issued by such company, or misrepresenting the benefits or privileges promised under any such policy, or estimating the future dividends payable under any such policy. No insurance company, association or society, officer, director, agent or solicitor, or any person, firm, association or corporation, shall make any misrepresentation or incomplete comparison of policies, oral, written or otherwise, to any person insured in any company for the purpose of inducing or tending to induce such person to take out a policy of insurance or for the purpose of inducing or tending to induce a policyholder in any company to lapse, forfeit or surrender his insurance therein, and to take out a policy of insurance in another like company. Upon satisfactory evidence of any violation of the provisions of this section by any insurance company, association or society, its officers, solicitors or agents, or any insurance broker, the commissioner shall forthwith revoke the certificate of authority of such company, association or society, its officers, solicitors or agents, and no license shall be issued to such company, association or society, officers, agents or solicitors, within one year from the date of the revocation of such license.

Misrepresentation and twisting.

Revocation of certificate.

(117) SEC. 8. Before any such certificate is revoked, as provided in sections six and seven hereof, the commissioner shall notify the holder thereof in writing of the complaint against him, and require such person on a date named, not less than fifteen days after service of said notice, to appear for a hearing before him at the insurance department, and such certificate shall not be revoked until after a full hearing or an opportunity therefor has been granted as herein provided; and no such revocation shall take effect until ten days after such order has been made by the commissioner

Notice to defendant.

Hearing.

and the holder thereof notified in writing of such action. Any such order may be reviewed by the supreme court if the appeal for such review is taken within the ten days immediately following the giving of the notice of the making of said order, and pending such appeal for review, such certificate of authority shall be deemed to be in full force and effect and until the final determination of such appeal, but in case the order of revocation by the commissioner is sustained the period of such revocation shall date from the time such appeal is determined.

Review by supreme court.

Unlawful to accept rebate, commission, etc.

(118) SEC. 9. No insured person or party shall receive or accept, directly or indirectly, any rebate of premium or part thereof, or agent's, solicitor's or broker's commission thereon, payable on the policy, or on any policy of insurance, or any favor or advantage or share in the dividend or other benefit to accrue thereon, or any valuable consideration or inducement, not specified in the policy contract of insurance.

Deduction from policy.

The amount of the insurance whereon the insured has knowingly received or accepted, either directly or indirectly any rebate of the premium or agent's, solicitor's or broker's commission thereon, shall be reduced in such proportion as the amount or value of such rebate, commission, dividend, or other consideration so received by the insured bears to the total premium on such policy, and any person insured, in addition to having the insurance reduced, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not more than one hundred dollars.

Misdemeanor.

Penalty.

Violation of provisions.

Any insurance company, association or society, agent, solicitor, or any person, firm, association, or corporation, violating any of the provisions of sections six and seven hereof shall be guilty of a misdemeanor, and upon conviction thereof the offender or offenders shall be sentenced to pay a fine of not more than one hundred dollars for each and every violation or in the discretion of the court, to imprisonment in the county jail of the county in which the offense is committed.

Rebate of premium, see Heffron v. Daly, 133 / 613.

Embezzlement by agents.

(119) SEC. 10. Embezzlement by Agents. Any money, substitute for money or thing of value whatsoever, received by any agent, solicitor or broker as premium or return premium, on or under any policy of insurance or application therefor, shall be deemed to have been received by such agent, solicitor or broker in his fiduciary capacity, and any agent, solicitor or broker who embezzles, or fraudulently converts or appropriates to his own use, or, with intent to embezzle, takes, secretes or otherwise disposes of, or fraudulently withholds, appropriates, lends, invests or otherwise uses or applies any money, substitute for money or thing of value received by him as premium or return premium on or under any policy of insurance or application therefor, contrary to the instructions or without the consent of the company, association or society, for or on account of which the same was

received by him, shall be deemed guilty of larceny by embezzlement, and shall be punished as provided in the criminal statutes of this state, irrespective of whether or not such agent, solicitor or broker has, or claims to have, any commission or other interest in such money, substitute for money or thing of value. Punishment.

Sub-Division Four.

(120) SEC. 11. It shall be unlawful for any insurance company legally authorized to transact business in this state, to write, place or cause to be written or placed, except through a duly licensed agent in this state, any policy or contract for indemnity or insurance in this state, in or through any such legally authorized company outside of the state of Michigan: Provided, That nothing in this chapter contained shall be construed to prevent any insurance company which has lawfully issued a policy of insurance through its resident agent within this state from reinsuring said risk or any portion thereof in any authorized company without having said policy of reinsurance signed by a local agent in this state. Non-resident agents. Proviso.

(121) SEC. 12. Any company violating the provisions of the foregoing section, upon notice and satisfactory proof thereof being made to the commissioner of insurance, shall have its authority to transact business in this state revoked for a period of not less than ninety days, and any insurance company whose license to do business in Michigan may be so revoked by the commissioner of insurance shall not again be permitted to do business in Michigan until all taxes and penalties due thereon shall have been paid, together with any expenses that may be due under the provisions of this act to the commissioner of insurance. Any such company may be readmitted to transact business in the state of Michigan upon a complete recompliance with the laws now in force in regard to the admission of insurance companies to do business in Michigan. Notice of violations. Revocation of authority. Re-admission.

(122) SEC. 13. When notice of any violation of the eleventh section of this chapter is received by the commissioner of insurance, it shall forthwith be his duty to visit the office of such company where such contract of insurance may have been written or made, and demand an inspection of the books and records of such company or companies. Any company refusing to exhibit its books and records for such inspection shall be deemed guilty of violating the provisions of this sub-division, and the penalties provided in the two last preceding sections shall immediately be enforced against such company by the commissioner of insurance. Examination upon notice of violation. Refusal to exhibit books, etc.

(123) SEC. 14. No insurance company or association, including fraternal beneficiary associations, doing business in this state shall, directly or indirectly, pay or use, or offer, consent or agree to pay or use any money or property for or in aid of any political parties, committee or organization, or Contributions for political purposes.

for or in aid of any corporation, joint stock or other association organized or maintained for political purposes, or for or in aid of any candidate for political office or for nomination for such office, or to employ any person to procure signatures to petitions for amendment to the constitution, or for any political purpose, whatsoever, or for the reimbursement or indemnification of any person for money or property so used. Any officer, director, stockholder, attorney or agent of any corporation or association which violates any of the provisions of this section, who participates in, aids, abets or advises or consents to any such violation and any person who solicits or knowingly receives any money or property in violation of this section, shall be guilty of a misdemeanor and be punished by imprisonment for not more than one year, or a fine of not more than one thousand dollars, or both such fine and imprisonment in the discretion of the court; and any officer aiding or abetting in any contribution made in violation of this sub-division shall be liable to the company or association for the amount so contributed.

Violations.

Penalty.

Sub-Division Five.

Not excused from testifying, etc.

(124) SEC. 15. No person shall be excused from attending and testifying, or producing any books, papers, or other documents before any court or magistrate, arbitrator or board of arbitrators, upon any investigation, proceeding or trial, for a violation of any of the provisions of this act, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding.

False oath, etc.

(125) SEC. 16. Any persons required by the provisions of this act to take any oath, or affirmation, who shall make any false oath or affirmation, shall be deemed guilty of perjury.

Recovery of penalties.

(126) SEC. 17. Every penalty provided for by this act, if not otherwise provided for, shall be sued for and recovered in the name of the people by the prosecuting attorney of the county in which the company or the agent or agents so violating shall be situated; and shall be paid into the treasury of said county; such penalties may also be sued for and recovered in the name of the people, by the attorney general, and, when sued for and collected by him, shall be paid into the state treasury.

Sub-Division Six.

Additional deposit, where made.

(127) SEC. 18. Whenever any fire or life insurance company, organized under the laws of this state and desiring to be admitted to do business in any state of the United States

or in any foreign country, shall be required to make or maintain a deposit of cash or securities or both in some state for the benefit of its policy-holders other than or in addition to the deposit required to be made with the state treasurer under the law of its incorporation, such other or additional deposit may be made and maintained with the state treasurer of this state. Such deposits so made shall be held by the state treasurer as security for the policy-holders of the company making the deposit and shall be subject so far as applicable to all the provisions of law governing deposits with the state treasurer by legal reserve life insurance companies organized under the laws of this state.

To be held as security.

(128) SEC. 19. Any individual, firm, corporation or association who is unable to procure sufficient indemnity in the companies which have been legally admitted to do business in this state, may file an affidavit with the commissioner of insurance to that effect, and in such case the affiant may be authorized to procure such needed additional indemnity from companies not represented in this state: Provided, That such individual, firm, corporation or association shall report to the said commissioner the amount of such policy or policies, together with the amount of premium paid therefor, and shall pay to the commissioner of insurance a sum of money equal to a tax of three per cent upon the amount of premiums named in said policy or policies.

Procuring insurance in unauthorized companies.

Proviso, taxes.

See also section 100.

Sub-Division Seven.

(129) SEC. 20. Nothing contained in this act shall be construed to affect or apply to orders, societies or associations of the following described classes, which provide for a death benefit of not more than two hundred fifty dollars, or disability benefits of not more than three hundred fifty dollars to any one person in any one year, or both:

Exceptions.

(a) Grand or subordinate lodges of Masons, Odd Fellows, Knights of Pythias (exclusive of the insurance department of the Supreme Lodge Knights of Pythias), the Junior Order of United American Mechanics (exclusive of the beneficiary degree of the insurance branch of the National Council Junior Order of the United American Mechanics), or to similar societies or orders or associations now doing business in this state, which provide benefits exclusively through local or subordinate lodges;

(b) Labor organizations or associations which limit their membership to persons of any one occupation employed in a designated city or town;

(c) Domestic societies which limit their membership to the employes of a particular city or town, designated firm, business house or corporation;

(d) Domestic societies or associations of a purely religious, charitable and benevolent description of a single denomination which limit their membership to the residents of

a designated city, village, or town and of contiguous cities, villages, or towns.

Added 1919, Act 135; Am. 1921, Act 124.
This section as here added by the act of 1919 does not appear to have been properly placed. See section 223, which would appear to be modified by this section.

PART THREE.—LIFE AND CASUALTY INSURANCE.

CHAPTER I.—REGULATIONS.

Sub-Division One.

Unauthorized business prohibited.

(130) SECTION 1. The business of insuring lives or issuing casualty policies or contracts within this state, by any private individual, association, or partnership, or by any incorporated company, under any authority whatsoever, other than the statutes of this state, is hereby wholly prohibited; and any person who shall solicit or obtain within this state, applications for any such insurance by any such private individual, association, partnership, or incorporated company, contrary to the provisions of this act, shall be deemed guilty of a misdemeanor and liable to a penalty of one hundred dollars for every application obtained. Any person who shall have paid to any agent of such unauthorized individual, association, partnership, or company, any premium moneys for insurance granted or to be granted, shall be entitled to recover the same back from such agent, or at his option, from the person, association, partnership, or company for which he acted, by action of assumpsit, to be brought at any time within six years after such payment.

Penalty.

Recovery, how had.

Number of corporators, kinds of insurance.

(131) SEC. 2. Thirteen or more persons may become a corporation for the purpose of making any of the following kinds of insurance:

Life.

First, Upon the lives and health of persons and every insurance pertaining thereto, and to grant, purchase or dispose of annuities;

Fidelity, surety.

Second, To guarantee the fidelity of persons in positions of trust, private or public, and to act as surety on official bonds and for the performance of other obligations, and to indemnify banks, bankers, brokers, financial or moneyed associations, or financial or moneyed corporations, against the loss of any bills of exchange, notes, drafts, acceptances of drafts, bonds, securities, evidences of debt, deeds, mortgages, documents, currency and money, except that no such contract or indemnity indemnifying banks, bankers, brokers, financial or moneyed associations or financial or moneyed corporations shall indemnify against loss caused by marine risks, or risks of transportation or navigation;

Third, To insure against loss or damage to property of the assured, and loss or damage to the life, person or property of another for which the assured is liable, caused by the explosion of steam boilers or their connections or by the breakage or rupture of machinery or fly wheels; and against loss of use and occupancy caused thereby; Steam boiler and fly wheel.

Fourth, To insure any person against bodily injury or death by accident, or against disability on account of sickness; Accident and health.

Fifth, To insure any person, firm or corporation against loss or damage on account of the bodily injury or death by accident of any person, or against damage caused by automobiles, vehicles or draft animals to property of another, for which loss or damage said person, firm or corporation is responsible, or against accidental damage sustained by automobiles or vehicles, or against all of the said contingencies; Automobile.

Sixth, To insure against a breakage of plate glass, local or in transit; Plate glass.

Seventh, To insure any goods or premises against loss or damage by water caused by the breakage or leakage of sprinklers, pumps, water pipes or plumbing and its fixtures, and against accidental injury from other causes than fire or lightning to such sprinklers, pumps, water pipes, plumbing and fixtures; Sprinkler.

Eighth, To carry on the business commonly known as credit insurance or guaranty, either by agreeing to purchase uncollectible debts, or otherwise to insure against loss or damage from the failure of persons indebted to the assured to meet their liabilities; Credit.

Ninth, To examine titles to real and personal property, furnish information relative thereto, and insure owners and others interested therein against loss by reason of encumbrances or defective title; Title.

Tenth, To insure against loss or damage by burglary, theft or house breaking; Burglary and theft.

Eleventh, To insure any person a funeral benefit payable at death. Burial.

Every company organized under this chapter shall have an authority to reinsure any risk authorized to be undertaken by them, and to grant reinsurance upon any similar risk undertaken by any other company, but shall not have power to undertake marine and fire risks or any other species of insurance whatever than that specified in some one or more of the foregoing sub-sections; but a corporation may be formed for the combined purposes specified in the first and fourth sub-sections; or, upon compliance with the requirements of sub-division two of this chapter, for all the purposes combined, or any two or more of them specified in the third, fourth, fifth, sixth, seventh, eighth, ninth, and tenth subsections. A life insurance company may insure against the death of the insured by accident or against disability on Reinsurance privileges. Combined purposes at organization. Life insurance companies.

account of accident or sickness, but against no other contingency specified in any sub-division of section two of this chapter, unless engaged in insuring against such other contingency in this state prior to the first day of January in the year nineteen hundred nine. The provisions of this chapter shall apply to any company heretofore organized, or that may hereafter be organized under this provision, for any and all of the purposes above specified.

Application of chapter.

For other classifications of automobile insurance, see secs. 259, 263 and 315.

LIFE INSURANCE: The object of life insurance is to provide for death by disease or in the ordinary course of nature.—John Hancock Mut. L. Ins. Co. v. Moore, 34 / 46. The business of life insurance has attained enormous proportions. It affects so many interests that the state has attempted to say under what conditions it may be conducted and has created a department for the purpose of supervising the business.—Mich. Mut. L. Ins. Co. v. Hartz, 129 / 104.

THE APPLICATION: False answers written in an application for life insurance by the agent, unknown to the applicant who signs the same, will not avoid the policy.—Van Houten v. Metropolitan Life Ins. Co., 110 / 682. An incorrect statement of the maiden name of the insured, by the agent in filling out an application, will not avoid the policy.—Plumb v. Mut. Life Ins. Co., 108 / 94. Policy avoided by misrepresentations in applications as to use of liquors.—Malicki v. Guaranty Fund Life Society, 119 / 151. Waiver by company of right to insist on breach of warranty in application for life insurance.—Moore v. Mut. Reserve Fund Life Ins. Assn., 133 / 526. A bill in equity will lie for the cancellation of a life insurance policy for fraudulent representations in the application, and is not subject to the objection that there is an adequate remedy at law.—N. Y. Life Ins. Co. v. Hamburger, 174 / 254. An insurance company, which claims that fraud was committed in procuring insurance is not entitled to inspect the records of a physician of a public institution in which decedent was confined when he died, such records being privileged under § 12550, C. L. '15.—Mass. Mut. Life Ins. Co. v. Trustees of Michigan Asylum for the Insane, 178 / 193. The application becomes a part of the policy when it is consummated and is binding on the applicant as to the time when the policy shall become operative. If it contains a stipulation that it shall not be in force until actual delivery, it is valid and binding.—Bowen v. Prudential Ins. Co. of America, 178 / 63. Both application and policy must be construed together as constituting the contract, and is presumed to have been read and understood by the insured. —Stitt v. Locomotive Engineers' Mut. Prot. Ass'n, 177 / 207. A representation in an application for accident insurance that plaintiff had not been disabled or received medical attention during the past five years, attached to and made a part of the policy, was an affirmative warranty which was material and its falsity amounted to such fraud as to vitiate the contract.—Rathman v. New Amsterdam Casualty Co., 186 / 115.

GOOD HEALTH: "Good health" means a state of health free from any disease or ailment that affects the general soundness and healthfulness of the system seriously.—Hann v. Nat'l Union, 97 / 513; Brown v. Life Insurance Co., 65 / 314. The condition of good health required at the time of insurance is not violated by a slight indisposition, as headache or colic, only temporary in its effect.—Tobin v. Modern Woodmen of America, 126 / 161. See also, Hann v. Nat'l Union 97 / 513; Pudritzky v. Knights of Honor, 76 / 428. A representation that one is in good health and has not been attended by a physician means that he is free from disease that would seriously affect the general soundness of the system. and that he has not been attended by a physician for a serious ailment.—Blumenthal v. Berkshire Life Ins. Co., 134 / 216. To have been "attended by a physician" or to have "consulted one professionally," within the meaning of such terms in an application for life insurance, must have been attendance or consultation with reference to some ailment of a serious character and not in relation to such temporary indisposition as all persons are liable to, though considered to be in good health generally.—Plumb v. Mut. Life Ins. Co., 108 / 94. Immaterial variation in statement as to attendance of physician for illness prior to application for life insurance.—Id. Policy avoided by material misrepresentations as to past health of applicant, made in the application.—Ketcham v. Am. Mut. Accident Association, 117 / 521; Ferris v. Home Life Assurance Co., 118 / 485. Waiver of provision that no obligation is assumed unless the assured is in sound health at the time of insurance.—Hilt v. Life Ins. Co., 110 / 517. A bill in equity will lie to enjoin the prosecution of a pending suit at law upon a policy of life insurance and to compel the surrender of the policy for cancellation, where a lapsed policy had been reinstated upon a false and fraudulent certificate as to the health of the insured.—John Hancock Mut. Life Ins. Co. v. Dick, 114 / 337.

THE POLICY: Where a company takes a note for premium due and gives renewal receipts therefor, the policy continues in force.—Mich. Mut. L. Ins. Co. v. Bowes, 42 / 19; Tabor v. Mich. Mut. L. Ins. Co., 44 / 324. A policy is not issued until delivered.—Malicki v. Guaranty Fund Life Society, 119 / 151. Vested interests in policies of life insurance.—Voss v. Conn. Mut. Life Ins. Co., 119 / 161. The construction of stipulations in a life policy is for the courts.—New Era Ass'n v. Mactavish, 133 / 68. Construction of contract of casualty insurance.—Stephens v. Penn. Casualty Co., 135 / 189. Reinstatement of lapsed policy.—Clark v. Insurance Co., 107 / 160; Mosser v. Life Indemnity Co., 115 / 672. When a policy for the surrender value must be demanded.—Clark v. Insurance Co.,

107 / 160. Under a policy requiring the assured to give immediate notice in writing of an accident or claim, notice need not be given until there has been both an accident and a claim for damages.—G. R. Electric Light & Power Co. v. Fidelity & Casualty Co., 111 / 148. An assignment of a life insurance policy to secure creditors is valid.—McDonald v. Birss, 99 / 329; Met. L. Ins. Co. v. O'Brien, 92 / 584. Surrender of policy.—Lockwood v. Mich. Mut. L. Ins. Co., 108 / 334. A policy of insurance issued in Michigan by a mutual benefit association organized under the laws of another state having a branch in Michigan is a Michigan contract.—Dolan v. Catholic Mutual Benefit Ass'n, 152 / 266. Where insurance policies are tontine in character, statements as to the prospective surplus or profits will be regarded by the courts as estimates rather than definite promises to pay a fixed amount, and while this does not prevent insurer and insured from contracting for insurance in a definite amount, it does prevent the turning of a tontine policy into one for a fixed sum in case the surplus does not reach expectations.—Luellen v. N. Y. Life Ins. Co., 201 / 512.

BENEFICIARIES: Insurable interest.—L. & A. Ins. Co. v. Catlin, 106 / 138; Hosmer v. Welch, 107 / 470. Upon the execution of a life insurance policy, the beneficiaries therein named acquire an interest which the law recognizes and which the insured cannot dispose of at his own will.—Lockwood v. Mich. Mut. Life Ins. Co., 108 / 334. Change of beneficiary in life insurance policy.—Malbury v. Metropolitan Life Ins. Co., 127 / 568. One of two beneficiaries in a life insurance policy cannot maintain an action for his proportion of the insurance without accounting for his failure to join the other beneficiary.—Voss v. Conn. Mut. Life Ins. Co., 119 / 161. When insured is not entitled to sick benefits for "total incapacity."—Shirts v. Phoenix Accident & Sick Benefit Ass'n, 135 / 439. Public policy does not forbid an insured selecting as his beneficiary one not having an insurable interest in his life.—Dolan v. Mutual Benefit Ass'n, 152 / 266. A life insurance policy payable to the insured's wife if she be living at his death and, if she be then dead, to her children, passes at the time of its issuance a vested interest to her, contingent upon her surviving the insured, and to her children and to the children of her children contingent upon her non-survival of the insured.—Germania Life Ins. Co. v. Wirtz, 196 / 145.

PAYMENT OF INSURANCE: Proofs of death.—John Hancock Mut. Life Ins. Co. v. Dick, 117 / 518. When an assignment of a life insurance policy to a person having no insurable interest in the life of the assignor will be held good.—Prudential Ins. Co. v. Liersch, 122 / 436. Payment of mutual benefit insurance to common law wife.—Maccabees v. McAllister, 132 / 69. Payment of insurance by company, in good faith, to party in possession of policy.—Voss v. Conn. Mut. Life Ins. Co., 131 / 597. What constitutes total disability under an accident policy.—Turner v. Fidelity & Casualty Co., 112 / 425; Hohn v. Inter-State Casualty Co., 115 / 79. Failure of the insured to give notice of an injury within the time required by an accident policy is waived by the insurance company's asking for further information after receiving notice, without suggesting that the notice came too late.—Hohn v. Inter-State Casualty Co., 115 / 79. When proofs of claim for sick benefit need not be furnished as provided in the policy.—Hoffman v. Mich. Home & Hospital Ass'n, 128 / 323. Under a proviso limiting the recovery to two-fifths of the amount of insurance, if death "result from unnecessary exposure to obvious risk of injury or obvious danger," plaintiff could recover the full amount, unless the insured were guilty of gross or wanton negligence.—Walter v. People's Health and Accident Ins. Co., 173 / 581. Whether decedent's act was intentional and whether he was guilty of such negligence, held a question of fact for the jury.—Id. Defendant held not a guarantor of the estimated surplus, so as to entitle plaintiff to recover the amount as estimated in the illustrative blank attached to the tontine policy.—O'Brien v. Equitable Life Assurance Society of U. S., 173 / 432.

MATTERS OF DEFENSE: The burden of proof is upon an insurance company to show a violation of conditions avoiding an otherwise valid policy.—Malicki v. Chicago Guaranty Fund Life Society, 119 / 151. Question of use of liquors, as defense against liability of life insurance policy, where evidence is conflicting, is for jury.—Malicki v. Guaranty Fund Life Society, 123 / 148. Defense against note given for premium for life insurance.—Sebring v. Hazard, 128 / 330. Suicide, in the case of one non compos is as much the result of disease as death by fever or consumption.—John Hancock Mut. L. Ins. Co. v. Moore, 34 / 46. Suicide as a defense against claim of insurance.—Wasey v. Travelers' Insurance Co., 126 / 119. "Voluntary exposure to unnecessary danger," as an exemption from liability on an accident insurance policy, means a conscious or intentional exposure, involving gross or wanton negligence on the part of the insured.—Johnson v. Guarantee & Accident Co., 115 / 86. A condition in an accident insurance policy against liability for injuries caused by "voluntary or unnecessary exposure to danger" is limited to cases of intentional exposure to recognized danger, and does not include acts of mere thoughtlessness on the part of the insured.—Irwin v. Accident & Sick Benefit Ass'n, 127 / 630. An exception in an accident policy of death or injuries resulting directly or indirectly from poison extends to cases where the poison is administered through the mistake of a druggist or physician.—Early v. Standard L. & A. Ins. Co., 113 / 58. An intentional homicide is an accident within the meaning of an accident policy, if insured himself was in no way responsible for his death.—Furbush v. Maryland Casualty Co., 131 / 234. Question of whether insured came to his death by homicide or suicide is for the jury, in case of contest.—Furbush v. Maryland Casualty Co., 133 / 479. An accident insurance company has the burden in an action upon a policy, of proving that an injury to plaintiff, shown to be the result of an accident, was within some exception named in the policy.—Hess v. Masonic Mut. Accident Ass'n, 112 / 196. Held, on review of the evidence in an action on an accident policy, that the question whether death resulted from violent and external injuries or from a chronic distemper was for the jury; also that recovery could not be refused on the ground that the insured had

a disease produced by the injury or any complaint that did not proximately cause his death.—Skinner v. Accident Ass'n, 190 / 353.

FIDELITY INSURANCE: A corporate surety for hire, unlike a gratuitous surety, cannot invoke the rule of *strictissimi juris*.—Ladies of Maccabees v. Surety Co., 196 / 27.

Capital stock, $100,000 to $5,000,000.

(132) SEC. 3. The capital of any stock company organized under this chapter shall not be less than one hundred thousand dollars, in shares of fifty dollars each, which capital stock may be increased by a vote of two-thirds of the stockholders present or represented at any regular meeting called for that purpose to not more than five million dollars; and

Mutual companies.

no such stock company and no company organized to do business on the mutual plan, except as otherwise provided by law, shall be authorized to issue policies or assume any risk whatever until they have deposited with the state treasurer, as security for any liability to insured parties, securities of the kind and character in which domestic insurance companies are permitted to invest their funds as prescribed in chapter one, part two hereof, to the amount in par value,

$100,000 deposit.

exclusive of interest, of not less than one hundred thousand dollars, which stocks or bonds shall be retained by the state treasurer, and disposed of as hereinafter directed:

Proviso.

Provided, however, That such deposits shall be made within one year from the date of the articles of association:

Further proviso, separate capital for surety business.

Provided further, That the capital of any stock company organized to do a general indemnity and surety bonding business shall be, for the separate purpose of such surety bonding business and additional to the capital required in any other business

$250,000 to $10,000,000.

in which it may be lawfully engaged, not less than two hundred fifty thousand dollars nor more than ten million dollars, and its deposit of securities with the state treasurer

Deposit $200,000.

as herein provided for shall not be less than two hundred thousand dollars, and such capital and such deposits shall be used solely in, and shall be liable only for the debts and liabilities of such surety bonding business; and no mutual

Mutual requirements.

insurance company shall commence business, by issuing policies, until it shall have received at least five hundred applications for insurance, on which the premiums shall amount to at least five thousand dollars, nor until the examination by the attorney general and commissioner of insurance as herein

Depreciation of securities.

provided; and in case any of said securities shall depreciate below par, the state treasurer is hereby authorized and directed to cause the corporation which has deposited them to make such depreciation good by additional deposit of such securities as are allowed by law, and to prohibit any corporation from transacting any insurance business within this state until the same shall have been deposited:

Proviso, accident and health.

Provided, That companies organized to insure on the monthly premium payment plan any person or persons against bodily injury or death by accident, or against disability on account of sickness, and any company organized to provide a funeral benefit

Funeral benefit.

payable at death not exceeding five hundred dollars may organize under this act with a capital stock of not less than

Capital and deposit.

twenty-five thousand dollars with shares of fifty dollars each.

but no such company shall issue policies or assume any risk until it shall have deposited with the state treasurer twenty-five thousand dollars in cash or other security, and under the same conditions as is applied to other stock companies referred to in this section.

Am. 1921, Act 157.
See section 409 imposing fee of one mill on each dollar of increase of capital stock.
When the state treasurer will not be required to permit the withdrawal of its deposit, see Life Ins. Co. v. Hambitzer, 95 / 513.

(133) SEC. 4. The bonds, or stocks and mortgage securities deposited by any such company with the state treasurer, shall be held by him as security for policy-holders in such company; but so long as it continues solvent, the company shall have the right from time to time to collect and receive the dividends or interest thereon, and to withdraw any of the same, on depositing with the state treasurer other securities of the kinds specified, so that the amount in his hands for the security of policy-holders, at any time, shall not be less than the amount in any case required by this act, exclusive of interest. If at any time a claim shall be made against any such company on one of its policies, and the same shall not be adjusted and paid, and the claimant shall recover judgment thereon against the company, the state treasurer, on being served with an affidavit by the claimant or his attorney, setting forth the recovery of the judgment, and that the same has remained unpaid for three months, and that no proceedings are pending for the review or reversal of the same, shall proceed to sell at the current market value, sufficient of the stocks or bonds so deposited with him, to satisfy the amount of such judgment, together, with one per centum for his services and expenses; or, if said stocks or bonds shall previously have been disposed of for the satisfaction of claims, then he shall proceed to collect sufficient of the mortgage securities to pay the amount of the claim mentioned in such affidavit, with his reasonable costs and expenses; and said company, after notice of the service of such affidavit, shall not be at liberty to issue any new policies until any deficiency of securities caused by the necessity of meeting such claims, shall have been made good by further deposit with said state treasurer of the like securities: Provided, however, That if any such company shall become insolvent, and proceedings shall be taken in equity with a view to its dissolution, nothing in this section contained shall prevent an equal and just distribution of all its assets, including the securities so deposited with the state treasurer, among the persons equitably entitled thereto.

State treasurer to hold securities.

Dividends and interest.

When securities may be sold to satisfy judgment.

May collect mortgage securities.

When company may not issue new policies.

Proviso, insolvency.

(134) SEC. 5. Any company organized to transact the business of life insurance or insurance against accident or sickness under any laws of this state, may reorganize under this law, and have the benefit of all its provisions, by a vote of the stockholders, or, if it be a mutual company, then by a vote of the members called for that purpose, in pursuance

Reorganization.

Filing of articles.

Change in business.

of its present articles, on entering into new articles of association, signed by its charter officers, setting forth the particulars required by the second section of this chapter and filing a copy of such articles with the commissioner of insurance and the proper county clerk, after such a certificate of the attorney general has been obtained as is required when articles are amended; and such company, in so reorganizing, shall be at liberty to make any change in its mode of doing business, not inconsistent with the provisions of this act, and to increase its capital stock, or to retire any guaranteed capital stock, as the stockholders or members may deem proper; but in so reorganizing they shall be subject to all the provisions of this act in regard to the deposit of securities, and to all its other provisions in the same manner and to the same extent as if such company had not previously had a corporate existence.

Sub-Division Two.

Casualty insurance without certificate of authority unlawful.

(135) SEC. 6. Casualty Insurance. No company, association, individual or association of individuals, formed under the laws of this or any other state or foreign government, whether incorporated or not, shall directly or indirectly transact the business either of plate glass, accident, employer's liability, and workmen's compensation, livestock, health, burglary, steam boiler, credit or casualty insurance, or insure the fidelity of persons holding public or private trust in this state, without receiving a certificate of authority from the commissioner of insurance.

Construction of credit guaranty policy.—Sloman v. Credit Guarantee Co., 112 / 258. Knowingly disobeying orders or rules as cause of discharge from employment.—Stitt v. Locomotive Engineers' Mut. Prot. Ass'n, 177 / 207.

Amount of paid up capital necessary.

Amount of securities deposited.

(136) SEC. 7. No company or association except as expressly otherwise provided by law, mentioned in the last preceding section shall be authorized by the commissioner of insurance to transact business in this state, unless possessed of an actual paid up capital of at least one hundred thousand dollars and a deposit of at least one hundred thousand dollars with the state treasurer of this state, of the securities prescribed in chapter one, part two hereof, duly assigned to such officer in trust for the benefit of all policy-holders. The market value of such deposit securities shall at all times be equal to one hundred thousand dollars.

Annual statements.

Computation of reserve fund.

(137) SEC. 8. Such individuals, companies or associations shall be required to comply with the laws of this state regulating the business of life insurance, in respect to making annual statements of financial conditions, and with all the other requirements so far as applicable. The commissioner of insurance shall compute the reserve fund to be held by such companies or associations by taking fifty per centum of the premiums received upon all risks not expired at the time of making such computation; and in addition thereto in the case of corporations doing an employer's liability insurance, the

commissioner of insurance shall compute the liabilities for unsettled claims in said employers' liability insurance business at not less than fifty per cent of the premiums received and earned during each and every year, less the amount paid for losses and expenses incidental thereto, upon claims brought under policies issued during said year: Provided, That such reserve shall not be computed for more than the five years previous to the time of making such computation: Provided further, That to the amount of the reserve so ascertained, there shall be added such amount as is necessary to provide for claims of earlier date, not liquidated. Whenever the capital of any company or association authorized under this sub-division, shall become impaired to the extent of fifteen per cent or shall otherwise become unsafe, it shall be the duty of the commissioner of insurance to cancel the authority of such company or association.

Idem, liabilities for unsettled claims.

Proviso.

Further proviso.

Impairment of capital.

This section requiring companies engaging in the casualty insurance business to comply with the laws regulating the business of life insurance in respect to making annual statements of financial conditions "and with all the other requirements so far as applicable," held, not to require casualty companies to comply with section 3, chapter 2, part 3, prohibiting the insertion of a clause in their policies limiting the time within which an action thereon could be brought to less than six years after the cause of action accrued.—Witkowski v. Fidelity & Cas. Co. of N. Y., 218 / 22.

(138) SEC. 9. The words "company" or "associations" as used in this sub-division shall be construed to mean any company, association, corporation, partnership, individual or association of individuals doing or attempting to do business in this state under any charter, compact, agreement or statute of this or any other state or foreign government, or whether incorporated or not, involving a guaranty contract or pledge of insurance upon plate glass or steam boilers, or upon the life of domestic animals and loss by disease, accident, or theft of such animals owned or located in this state, or upon individuals, residents of this state, against disease or against personal injury, disablement or death resulting from accident, or against loss from burglary, theft or both, or against any other casualty specified in the charter which may lawfully be the subject of insurance or guaranteeing the fidelity of any person holding public or private trust, or involving any contract to guarantee and indemnify merchants, traders, and those engaged in business and giving credit, from loss and damage by reason of giving and extending credit to their customers and those dealing with them.

Company and association defined.

Sub-Division Three.

(139) SEC. 10. Every company doing a business of life insurance within this state shall annually in the month of January, furnish the commissioner of insurance the data necessary for determining the amount of its liabilities, and the valuation of all its outstanding policies to be made by the commissioner of insurance, or under his authority, and in making such valuation, the rate of interest to be assumed shall, after and including the year eighteen hundred ninety-six, be four per centum per annum, and at the election of any such insurance company such rate of four per centum

Annual official valuation.

shall be assumed any year prior to eighteen hundred ninety-six, and the rate of mortality shall be that established by the "American experience life table," as shown in the schedule hereto annexed, and such company shall pay the commissioner of insurance, as a compensation for such estimate, one cent for each thousand dollars insured: Provided, That where, by the laws of any other state, an annual valuation is required to be made by an insurance commissioner or other state officer, the official certificate of any such commissioner or officer, being filed with the commissioner of insurance and showing the annual official valuation of the policies of any company doing business within such state, and showing also the basis of such valuation, shall be sufficient, and stand in the place of any valuation of the policies of such company, by or under the direction of the commissioner of insurance of this state. But no company shall be permitted to transact business within this state, unless the amount of its assets shall equal the net value of all its outstanding obligations, as determined according to the assumptions in regard to rates of interest and mortality as hereinbefore provided; and in case the assets of any company transacting business within this state shall at any time be less than is required by the provisions of this act, the commissioner of insurance shall serve a written notice upon the person designated by such company to receive service of process under the laws of this state, or shall address such notice by mail to the principal office of such company and publish the same at least three times in some newspaper circulated daily in this state; and if, after the expiration of ten days from the service of publication of such notice, any agent or officer of such company shall receive applications for policies, or issue policies, while such deficiency of assets exists and the cost of giving such notice remains unpaid by such company, he shall be subject to the penalties provided in section one of this chapter: Provided further, That when the certificate of the commissioner of insurance of the official valuation of the policies issued by any company organized under the laws of this state, shall not be accepted by any other state in lieu of a valuation of the same by the insurance officer of such other state, then all companies organized under the laws of such other state, shall be required to have a separate valuation made under the authority of the commissioner of insurance of this state, as herein provided. The commissioner of insurance may, upon written application of the company, vary the standards of mortality and interest required by this section, value policies in groups, use approximations and accept the valuation of the department of insurance of any other state in place of the valuation required by this act; nothing in this paragraph shall be construed as permitting the use of standards of mortality and interest or methods producing reserves lower than those based upon the standard prescribed by this section; said policies shall be valued in accordance with the terms of the policy contracts.

Compensation for making.

Proviso, foreign companies.

Certain certificate sufficient.

Deficiency of assets.

Notice given.

Business penalized.

Further proviso, reciprocal provisions.

Commissioner may vary standards, etc.

SCHEDULE.

Table of mortality based on American experience.

Age.	Numbers living.	Numbers dying.	Expectation of life.	Age.	Numbers living.	Numbers dying.	Expectation of life.	Age.	Numbers living.	Numbers dying.	Expectation of life.
10	100,000	749	48.72	39	78,862	756	28.90	68	43,133	2,243	9.48
11	99,251	746	48.08	40	78,106	765	28.18	69	40,890	2,321	8.98
12	98,505	743	47.44	41	77,341	774	27.45	70	38,569	2,391	8.48
13	97,762	740	46.82	42	76,567	785	26.72	71	36,178	2,448	8.00
14	97,022	737	46.16	43	75,782	797	25.99	72	33,730	2,487	7 54
15	96,285	735	45.50	44	74,985	812	25.27	73	31,243	2,505	7.10
16	95,550	732	44.85	45	74,173	828	24.54	74	28,738	2,501	6.68
17	94,818	729	44.19	46	73,345	848	23.80	75	26,237	2,476	6.28
18	94,089	727	43.53	47	72,497	870	23.08	76	23,761	2,431	5.88
19	93,362	725	42.87	48	71,627	896	22.36	77	21,330	2,369	5.48
20	92,637	723	42.20	49	70,731	927	21.63	78	18,961	2,291	5.10
21	91,914	722	41 53	50	69,804	962	20.91	79	16,670	2,196	4.74
22	91,192	721	40.85	51	68,842	1,001	20 20	80	14,474	2,091	4.38
23	90,471	720	40.17	52	67,841	1,044	19.49	81	12,383	1,964	4.04
24	89,751	719	39.49	53	66,797	1,091	18.79	82	10,419	1,816	3.71
25	89,032	718	38.81	54	65,706	1,143	18.69	83	8,603	1,648	3.30
26	88,314	718	38.11	55	64,563	1,199	17.40	84	6,955	1,470	3.08
27	87,596	718	37.43	56	63,364	1,260	16.72	85	5,485	1,292	2.77
28	86,878	718	36.73	57	62,104	1,325	16.05	86	4,193	1,114	2.47
29	86,160	719	36.03	58	60,779	1,394	15.39	87	3,079	933	2.19
30	85,441	720	35.33	59	59,385	1,468	14.74	88	2,146	744	1.93
31	84,721	721	34.62	60	57,917	1,546	14.09	89	1,402	555	1.69
32	84,000	723	33.92	61	56,371	1,628	13.47	90	847	385	1.42
33	83,277	726	33.21	62	54,743	1,713	12.85	91	462	246	1.19
34	82,551	729	32.50	63	53,030	1,800	12.26	92	216	137	.93
35	81,822	732	31.78	64	51,230	1,889	11.68	93	79	58	.80
36	81,090	737	31.07	65	49,341	1,980	11.10	94	21	18	.64
37	80,353	742	30.35	66	47,361	2,070	10.54	95	3	3	50
38	79,611	749	29.62	67	45,291	2,158	10.00	.....	.....	.....	.....

The method of taxation provided is not obnoxious to the constitutional requirement of uniformity.—Mich. Mut. Life Ins. Co. v. Hartz, 129 / 104. This section clearly recognizes that, to arrive at the net assets of the company, it is necessary to deduct from its gross assets its liabilities; and it is equally clear that the property owned by an insurance company cannot be said to be more than the difference between these two sums.—Mich. Mut. Ins. Co. v. Detroit Com. Council, 133 / 411. Tables of mortality admissible in evidence.—Cooper v. Railway Co., 66 / 268; Jones v. McMillan, 129 / 86. The mortality tables are controlling, if offered in evidence, as to the expectancy of life, unless there is testimony tending to show that such expectancy was greater or less than the tables indicate.—Little v. Bousfield & Co., 165 / 654. This table shows the probable expectancy of life but is not conclusive evidence.—Hunn v. Railroad Co., 78 / 528. Except in the absence of evidence to show a greater probability of life.—Nelson v. Railway Co., 104 / 582; Beattie v. City of Detroit, 137 / 327. But this table is not admissible in case of an age under ten years.—Rajnowski v. Railroad Co., 74 / 27. Limitations on expectation of life, as shown by tables.—Rouse v. Detroit Electric Company, 128 / 149. Expectancy beyond that shown by table.—Hamilton v. M. C. R. Co., 135 / 95.

Mortgage securities with state treasurer, assignment of.

(140) SEC. 11. The mortgages authorized to be deposited with the state treasurer, under this act shall be made or assigned to him in his name of office, but shall not be subject to assignment or sale by him, except as the company depositing the same may become entitled to receive the same back according to the conditions of this act, but said state treasurer may enforce the same in his name of office, whenever necessary to pay claims as hereinbefore provided. The custody of any scurities by the state treasurer under this act shall be deemed the custody of the state and any sale, transfer by hypothecation, or conversion of any such securities by the state treasurer, or by any officer, clerk or other person employed in his office, except as authorized by this act shall be deemed an act of embezzlement, and shall be punished by imprisonment in the state prison not more than fourteen years, or by fine not exceeding two thousand dollars, or by both such fine and imprisonment in the discretion of the court.

Violation of custody of state, deemed embezzlement.

Penalty.

Company disbursements to be by voucher.

(141) SEC. 12. No domestic life insurance company shall make any disbursement of one hundred dollars or more unless the same be evidenced by a voucher signed by or on behalf of the person, firm, or corporation receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements, the voucher shall set forth the services rendered and an itemized statement of the disbursements made. If the expenditure be in connection with any matter pending before any legislative or public body, or before any department or officer of any state or government, the voucher shall correctly describe, in addition, the nature of the matter and of the interest of such company therein. When such voucher cannot be obtained the expenditure shall be evidenced by an affidavit describing the character and object of the expenditure and stating the reason for not obtaining such voucher.

When voucher cannot be obtained.

Salary of officer, etc., limited.

(142) SEC. 13. No domestic life insurance company shall pay any salary, compensation or emolument to any officer, trustee or director thereof, nor any salary, compensation or emolument amounting in any year to more than five thousand dollars to any person, firm or corporation, unless such payment be first authorized by a vote of the board of directors of such life insurance company. No such life insurance company shall make any agreement with any of its officers, trustees or salaried employes whereby it agrees that for any services rendered or to be rendered he shall receive any salary, compensation or emolument that will extend beyond a period of twelve months from the date of such agreement; and no officer, director or trustee who is paid a salary for his services of more than one hundred dollars per month shall receive any other compensation or emolument: Provided, That the limitation as to time contained herein shall not be construed as preventing a life insurance company from entering into contracts with its agents for the payment of renewal commissions or salaries and commissions to any

Period limited.

Proviso, renewal commissions, etc.

officer, agent or employe based on the amount of business produced. No such company shall grant any pension to any officer, director or trustee thereof, or to any member of his family after his death. Pensions unlawful.

Sub-Division Four.

(143) SEC. 14. Any number of persons, not less than thirteen, may associate together and form an incorporated company for the following purposes, to-wit: Corporate powers.

First, To insure railway employes against loss of position resulting from discharge or retirement;

Second, To insure any person against bodily injury or death by accident, or against disability on account of sickness;

Third, To insure the lives and health of persons and every insurance pertaining thereto, and to grant, purchase or dispose of annuities.

Am. 1919, Act 363; 1923, Act 71.

(144) SEC. 15. The amount of capital stock of any company organized under the provisions of this sub-division shall not be less than one hundred thousand dollars, in shares of the par value of fifty dollars each. Capital stock.

Am. 1919, Act 363.

(145) SEC. 16. Such provisions of this part as are not inconsistent with, or in conflict with provisions of this sub-division are hereby made applicable to the operation of any company organized under the provisions of this sub-division. Provisions applicable.

CHAPTER II.—LIFE AND CASUALTY INSURANCE CONTRACTS.

Sub-Division One.

(146) SECTION 1. Every policy of insurance hereafter issued or delivered within this state by any life insurance corporation doing business within the state shall contain the entire contract between the parties. And nothing shall be incorporated therein by reference to any constitution, by-laws, rules, application or other writing unless the same are endorsed upon or attached to the policy when issued. Policy, what to contain.

The failure to attach the application to the policy must be held as an expression on the part of the company of its purpose to waive or relinquish its right to have the application considered as a part of the contract of insurance.—N. Y. Life Ins. Co. v. Hamburger, 174 / 254, 259. Where a person accepts a contract and acts upon it he is bound to know its terms and conditions, and he cannot accept its benefits, or a part thereof, and reject the balance, and plead ignorance of its conditions.—Warren v. Federal Life Ins. Co., 198 / 342. As to the application of life requirements to casualty contracts, see Witkowski v. Fidelity & Cas. Co., 218 / 23.

(147) SEC. 2. Any life insurance company insuring lives within this state may include in its policy contract a provision intended to safeguard such life insurance against Safeguard against lapse, etc.

lapse, or provisions that shall provide a special surrender value therefor in the event that the insured thereunder shall, by reason of accidental bodily injury or disease, be unable to continue the premium payments thereon.

Sub-Division Two.

Mandatory policy provisions.

(148) SEC. 3. No policy of life insurance shall be issued in this state, unless the same shall contain the following provisions:

Advance payments.

First, A provision that all premiums shall be payable in advance, either at the home office of the company or to an agent of the company, upon delivery of a receipt signed by one or more of the officers who shall be named in the policy;

Grace.

Second, A provision for a grace of one month for the payment of every premium after the first year, which may be subject to an interest charge, during which month the insurance shall continue in force, which provision may contain a stipulation that if the insured shall die during the month of grace the overdue premium will be deducted in any settlement under the policy;

Incontestability clause.

Third, A provision that the policy, together with the application therefor, a copy of which application shall be endorsed upon or attached to the policy and made a part thereof, shall constitute the entire contract between the parties and shall be incontestable after it shall have been in force during the life time of the insured for two years from its date, except for non-payment of premiums and except for violations of the policy relating to naval and military services in time of war, and at the option of the company provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident may also be excepted;

Statements deemed representations.

Fourth, A provision that all statements made by the insured, shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall avoid the policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to the policy when issued;

Age understated.

Fifth, A provision that if the age of the insured has been under-stated, the amount payable under the policy shall be such as the premium would have purchased at the correct age;

Participation.

Sixth, A provision that the policy shall participate in the surplus of the company, and that, beginning not later than the end of the fifth policy year, the company will determine and account for the portion of the divisible surplus accruing on the policy, and that the owner of the policy shall have the right to have the current dividend arising from such participation paid in cash, and that at periods of not more than five years such accounting and payment at the option of the policyholder shall be had. This provision shall not be required in non-participating policies;

Seventh, A provision that after three full year premiums have been paid, the company at any time, while the policy is in force, will advance, on proper assignment of the policy and on the sole security thereof, at a specified rate of interest, a sum equal to, or at the option of the owner of the policy, less than the reserve at the end of the current policy year on the policy and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserve, less a sum not more than two and one-half per centum of the amount insured by the policy and of any dividend additions thereto; and that the company will deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision may further provide that such loan may be deferred for not exceeding six months after the application therefor is made. It shall be further stipulated in the policy that failure to pay any such advance or to pay interest shall not void the policy unless the total indebtedness thereon to the company shall equal or exceed such loan value at the time of such failure nor until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance. This provision shall not be required in term insurances;

Loans.

Deduction for debt.

Eighth, A provision which, in event of default in premium payments, after premiums shall have been paid for three years, shall secure to the owner of the policy a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserves, less a sum not more than two and one-half per centum of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy. Such provision shall stipulate that the policy may be surrendered to the company at its home office within one month from date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid and may stipulate that the company may defer payment for not more than six months after the application therefor is made. This provision shall not be required in term insurances of twenty years or less;

Default in premiums.

Surrender value.

Ninth, A table showing in figures the loan values, and the options available under the policies each year upon default in premium payments, during at least the first twenty years of the policy, beginning with the year in which such value and options become available;

Loan values.

Tenth, A provision that if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurance, and if such insurance shall be in

Purchase or reinstatement.

force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three years from such default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest;

Settlement, due proof.

Eleventh, A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than two months after receipt of such proof;

Installment payments.

Twelfth, A table showing the amounts of installments in which the policy may provide its proceeds may be payable;

Thirteenth, A title on the face and on the back of the policy correctly describing the same.

Title of poliey.

Any of the foregoing provisions or portion thereof relating to premiums not applicable to single premium policies, shall to that extent not be incorporated therein.

Am. 1923, Aet 63.

Automatic premium provision.—Mutual Benefit Life Insurance Company v. Com'r of Insurance, 151 / 610. The eommissioner of insurance will not be required by mandamus to approve insurance policies which inelude a clause that if any premium, note or portion thereof is not paid when due the policy shall be void, the provision being a material ehange from the requirements of this aet, as to the payment of the first premium in advance, and subsequent premiums, within thirty days.—Franklin Life Ins. Co. v. Com'r of Ins., 159 / 636. After the insured, who defaulted in the payment of premiums on his life insurance poliey, had given notes extending the time of payment for upwards of four months, again defaulted, failing to pay one of the notes, he was not entitled to a further period of one month under the provisions of this aet.—Schmedding v. Northern Assurance Co., 170 / 528. Waiver of breach for non-payment of dues.—Homann v. Allgemeiner Bund, 184 / 417. Payments of premiums by an insured on a life poliey are voluntary, where the insured is during all the period, insured and has the benefits of the poliey, and they cannot be reeovered baek. Payment made under protest does not change a voluntary into an involuntary payment.—Warren v. Fed. Life Ins. Co., 198 / 342. In an action on a life insurance policy where the policy contained a recital that the premium had been paid, but there was evidence that a letter was sent with the policy advising insured that the premium was not paid, and the application provided that there should be no liability on the policy until it was delivered and the first premium paid, the court erroneously directed a verdict on the ground that there was a completed contract.—Christophersen v. Life Ins. Co., 199 / 634. Limiting time for action on casualty policy, see Witkowski v. Fidelity & Cas. Co. of N. Y., 218 / 22.

Provisions not permitted.

(149) Sec. 4. No policy of life insurance shall be issued or delivered in this state if it contain any of the following provisions:

Loans.

First, A provision for the forfeiture of the policy for failure to repay any loan on the policy or to pay interest on such loan while the total indebtedness on the policy is less than the loan value thereof; or any provision for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contain a stipulation that no such forfeiture shall occur until at least one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any; or a provision contemplating any proposed benefit not essentially a part of the insurance contract or any connection of the assured with the company other than that of policy-holder;

Limiting aetions.

Second, A provision limiting the time within which any action at law or in equity may be commenced to less than six years after the cause of action shall accrue;

Dating back.

Third, A provision by which the policy shall purport to be issued or to take effect before the original application for insurance was made, if thereby the insured would rate at an

age younger than his age at date when the application was made, according to his age at last birthday;

Fourth, A provision for any mode of settlement at maturity of less value than the amount insured by the policy plus dividend additions, if any, less any indebtedness to the company on the policy and less any premium that may by the terms of the policy be deducted, payments to be made in accordance with the terms of the policy. This prohibition shall not apply to sub-standard policies. Settlement for less value.

Limitation of action.—Johnson v. Fidelity & Casualty Co., 184 / 406.

(150) SEC. 5. Policies may be issued in this state providing for not more than one year preliminary term insurance by the incorporation therein of a clause on the face of the policy distinctly specifying that the first year's insurance is term insurance. If the premium charged for term insurance under a limited payment life or endowment preliminary term policy providing for the payment of all premiums thereon in less than twenty years from the date of the policy, exceeds that charged for life insurance under twenty pay life preliminary term policies of the same company at the same age, the reserve thereon at the end of any year, including the first, shall not be less than the reserve on a twenty pay life preliminary term policy issued in the same year and at the same age, together with an amount which shall be equivalent to the accumulation of a net level premium sufficient to provide for a pure endowment at the end of the premium payment period equal to the difference between the value at the end of such period for such twenty pay life preliminary term policy and the full reserve at such time of such a limited payment, life or endowment policy. Preliminary term method. Modified reserve.

(151) SEC. 6. No policy of life insurance shall be issued or delivered in this state, until the form of the same has been filed with the commissioner of insurance and after the commissioner of insurance shall have notified any company of his disapproval of any form it shall be unlawful for such company to issue any policy in the form so disapproved. The commissioner's action shall be subject to review by any court of competent jurisdiction. Filing of form. Review.

(152) SEC. 7. The policies of a life insurance company, not organized under the laws of this state, may, if approved by the commissioner of insurance of this state, contain any provision which the law of the state, territory, district or country under which the company is organized, prescribed shall be in such policies, when issued in this state, and the policies of a life insurance company organized under the laws of this state, may when issued or delivered in any other state, territory, district or country, contain any provision required by the laws of the state, territory, district or country in which the same are issued, anything in this act to the contrary notwithstanding. Approval of foreign policies.

For provisions relating to casualty policies, see secs. 166 and 333.

Not applicable to annuities, etc.

Proviso.

(153) SEC. 8. This sub-division shall not apply to annuities, industrial policies or to corporations or associations operating on the assessment or fraternal plan: Provided, That contracts may be issued in this state providing for both insurance and annuities on the same life, and this sub-division shall apply only to that part of such contracts providing for insurance, but every such contract providing for a deferred annuity on the life of the insured only, or a deferred annuity issued on a single life, shall, unless paid for by a single premium, provide that in the event of the non-payment of any premium after three full years premiums shall have been paid, the annuity shall automatically become converted into a paid up annuity for such proportion of the original annuity as the number of completed years premiums paid bears to the total number of premiums required under the contract.

Ascertaining loan indebtedness.

(154) SEC. 9. In ascertaining the indebtedness due upon any loan upon any policy of insurance issued in this state, the interest, if not paid when due, shall be added to the principal of such loan, and shall bear interest at the rate specified in the note or loan agreement.

Sub-Division Three.

Co-operative and fraternal beneficiary associations.

(155) SEC. 10. That all co-operative insurance companies, mutual benefit, any fraternal beneficiary associations doing business in the state of Michigan, shall, when requested by the insured, attach to every policy when issued in this state, an accurate copy of the application for such insurance, including the medical examination, family history of the applicant and all representations of any kind made by the applicant upon which the contract for insurance is based. If such copy of application shall not be requested by the insured at the time policy is issued, it shall be furnished by the corporation insuring at any time thereafter upon request of the insured in his life time, or of his representatives or beneficiaries after his death.

Copy of application attached.

Revocation, etc., of license upon failure.

(156) SEC. 11. If any co-operative insurance company, mutual benefit or fraternal beneficiary association shall fail to comply with the provisions of section ten, of this chapter, it shall be the duty of the commissioner of insurance of this state, upon a hearing before him after proper notice given to such company, to revoke the license or suspend the right of such company to do business within this state for such time, not less than three months nor exceeding one year, as to the commissioner shall seem just and proper.

Sub-Division Four.

Health and accident policies, copy of form, where filed.

(157) SEC. 12. Hereafter no policy of insurance against loss or damage from the sickness or the bodily injury or death of the insured by accident shall be issued or delivered to any person in this state until a copy of the form thereof

and of the classification of risks and the premium rates pertaining thereto have been filed with the commissioner of insurance; nor shall it be so issued or delivered until the expiration of thirty days after it has been so filed, unless the said commissioner shall sooner give his written approval thereto. If the said commissioner shall notify, in writing, the company, corporation, association, society or other insurer which has filed such form that it does not comply with the requirements of law, specifying the reasons for his opinion, it shall be unlawful thereafter for any such insurer to issue any policy in such form. The action of the said commissioner in this regard shall be subject to review by any court of competent jurisdiction;

Notice of non-approval.

Review.

(158) SEC. 13. No such policy shall be so issued or delivered (1) unless the entire money and other considerations therefor are expressed in the policy; nor (2) unless the time at which the insurance thereunder takes effect and terminates is stated in a portion of the policy preceding its execution by the insurer; nor (3) if the policy purports to insure more than one person; nor (4) unless every printed portion thereof and of any endorsements or attached papers shall be plainly printed in type of which the face shall not be smaller than ten point; nor (5) unless a brief description thereof be printed on its first page and on its filing back in type of which the face shall be not smaller than fourteen point; nor (6) unless the exceptions of the policy be printed with the same prominence as the benefits to which they apply: Provided, however, That any portion of such policy which purports, by reason of circumstances under which a loss is incurred, to reduce any indemnity promised therein to an amount less than that provided for the same loss occurring under ordinary circumstances, shall be printed in bold face type and with greater prominence than any other portion of the text of the policy.

When not to be issued, etc.

Proviso, reduction of indemnity.

(159) SEC. 14. Every such policy so issued shall contain standard provisions, which shall be in the words and in the order hereinafter set forth and be preceded in every policy by the caption "standard provisions." In each such standard provision wherever the word "insurer" is used, there shall be substituted therefor "company" or "corporation" or "association" or "society" or such other word as will properly designate the insurer. Said standard provision shall be:

Standard provisions.

(1) A standard provision relative to the contract which may be in either of the following two forms: Form (A) to be used in policies which do not provide for reduction of indemnity on account of change of occupation, and form (B) to be used in policies which do so provide. If form (B) is used and the policy provides indemnity against loss from sickness, the words "or contracts sickness" may be inserted therein immediately after the words "in the event that the insured is injured."

(A) 1. This policy includes the endorsements and attached papers if any, and contains the entire contract of

insurance. No reduction shall be made in any indemnity herein provided by reason of change in the occupation of the insured or by reason of his doing any act or thing pertaining to any other occupation.

(B) 1. This policy includes endorsements and attached papers if any, and contains the entire contract of insurance except as it may be modified by the insurer's classification of risks and premium rates in the event that the insured is injured after having changed his occupation to one classified by the insurer as more hazardous than that stated in the policy, or while he is doing any act or thing pertaining to any occupation so classified, except ordinary duties about his residence or while engaged in recreation, in which event the insurer will pay only such portion of the indemnities provided in the policy as the premium paid would have purchased at the rate, but within the limit so fixed by the insurer for such more hazardous occupation. If the law of the state in which the insured resides at the time this policy is issued required that prior to its issue a statement of the premium rates and classification of risks pertaining to it shall be filed with the state official having supervision of insurance in such state then the premium rates and classifications of risks mentioned in this policy shall mean only such as have been last filed by the insurer in accordance with such law, but if such filing is not required by such law then they shall mean the insurer's premium rates and classification of risks last made effective by it in such state prior to the occurrence of the loss for which the insurer is liable.

(2) A standard provision relative to changes in the contract, which shall be in the following form:

(A) 2. No statement made by the applicant for insurance not included herein shall avoid the policy to be used in any legal proceeding hereunder. No agent has authority to change this policy or to waive any of its provisions. No change in this policy will be valid, unless approved by an executive officer of the insurer and such approval be endorsed hereon.

(3) Standard provisions relative to reinstatement of policy after lapse which may be in either of the three following forms: Form (A) to be used in policies which insure only against loss from accident; form (B) to be used in policies which insure only against loss from sickness; and form (C) to be used in policies which insure against loss from both accident and sickness.

(A) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of the premium by the insurer or by any of its duly authorized agents shall reinstate the policy, but only to cover loss resulting from accidental injury thereafter sustained.

(B) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of the premium by the insurer or by any of its duly authorized

agents shall reinstate the policy but only to cover such sickness as may begin more than ten days after the date of such acceptance.

(C) 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of the premium by the insurer or by any of its duly authorized agents shall reinstate the policy, but only to cover accidental injury thereafter sustained and such sickness as may begin more than ten days after the date of such acceptance.

(4) A standard provision relative to time of notice of claim which may be in either of the three following forms: Form (A) to be used in policies which insure only against loss from accident; form (B) to be used in policies which insure only against loss from sickness; and form (C) to be used in policies which insure against loss from both accident and sickness. If form (A) or form (C) is used the insurer may at its option add thereto the following sentence: "In the event of accidental death immediate notice thereof must be given to the insurer."

(A) 4. Written notice of injury on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury.

(B) 4. Written notice of sickness on which claim may be based must be given to the insurer within ten days after the commencement of the disability from such sickness.

(C) 4. Written notice of injury or of sickness on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury or within ten days after the commencement of disability from such sickness.

(5) A standard provision relative to sufficiency of notice of claim which shall be in the following form and in which the insurer shall insert in the blank space such office and its location as it may desire to designate for such purpose of notice:

(A) 5. Such notice given by or in behalf of the insured or beneficiary, as the case may be, to the insurer at..... ..... or to any authorized agent of the insurer, with particulars sufficient to identify the insured, shall be deemed to be notice to the insurer. Failure to give notice within the time provided in this policy shall not invalidate any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

(6) A standard provision relative to furnishing forms for the convenience of the insured in submitting proof of loss as follows:

(A) 6. The insurer upon receipt of such notice, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not so furnished within fifteen days after the receipt of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting

within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, character and extent of the loss for which claim is made.

(7) A standard provision relative to filing proof of loss shall be in such one of the following forms as may be appropriate to the indemnities provided:

(A) 7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the date of the loss for which claim is made.

(B) 7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the termination of the period of disability for which the company is liable.

(C) 7. Affirmative proof of loss must be furnished to the insurer at its said office in case of claim for loss of time from disability within ninety days after the termination of the period for which the insurer is liable and in case of claim for any other loss, within ninety days after the date of such loss.

(8) A standard provision relative to examination of the person of the insured and relative to autopsy which shall be in the following form:

(A) 8. The insurer shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim hereunder, and also the right and opportunity to make an autopsy in case of death where it is not forbidden by law.

(9) A standard provision relative to the time within which payments other than those for loss of time on account of disability shall be made which provisions may be in either of the following two forms and which may be omitted from any policy providing only indemnity for loss of time on account of disability. The insurer shall insert in the blank space either the word "immediately" or appropriate language to designate such period of time, not more than sixty days, as it may desire; form (A) to be used in policies which do not provide indemnity for loss of time on account of disability, and form (B) to be used in policies which do so provide.

(A) 9. All indemnities provided in this policy will be paid.....after receipt of due proof.

(B) 9. All indemnities provided in this policy for loss other than that of time on account of disability will be paid.....after receipt of due proof.

(10) A standard provision relative to periodical payments of indemnity for loss of time on account of disability, which provision shall be in the following form and which may be omitted from any policy not providing for such indemnity. The insurer shall insert in the first blank space of the form, appropriate language to designate the proportion of accrued indemnity it may desire to pay, which proportion may be all or any part not less than one-half, and in the second blank

space shall insert any period of time not exceeding sixty days.

(A) 10. Upon request of the insured and subject to due proof of loss..... accrued indemnity for loss of time on account of disability will be paid at the expiration of each..... during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of due proof.

(11) A standard provision relative to indemnity payments which may be in either of the two following forms: Form (A) to be used in policies which designate a beneficiary, and form (B) to be used in policies which do not designate any beneficiary other than the insured.

(A) 11. Indemnity for loss of life of the insured is payable to the beneficiary if surviving the insured, and otherwise to the estate of the insured. All other indemnities of this policy are payable to the insured.

(B) 11. All indemnities of this policy are payable to the insured.

(12) A standard provision providing for cancellation of the policy at the instance of the insured which shall be in the following form:

(A) 12. If the insured shall at any time change his occupation to one classified by the insurer as less hazardous than that stated in the policy, the insurer, upon written request of the insured, and surrender of the policy, will cancel the same and will return to the insured the unearned premium.

(13) A standard provision relative to the rights of the beneficiary under the policy which shall be in the following form and which may be omitted from any policy not designating a beneficiary:

(A) 13. Consent of the beneficiary shall not be requisite to surrender or assignment of this policy, or to change of beneficiary, or to any other changes in the policy.

(14) A standard provision limiting the time within which suit may be brought upon the policy as follows:

(A) 14. No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after proof of loss has been filed in accordance with the requirements of this policy, nor shall such action be brought at all unless brought within two years from the expiration of the time within which proof of loss is required by the policy.

(15) A standard provision relative to time limitations of the policy as follows:

(A) 15. If any time limitation of this policy with respect to giving notice of claim or furnishing proof of loss is less than that permitted by the law of the state in which the insured resides at the time this policy is issued, such limitation is hereby extended to agree with the minimum period permitted by such law.

IMMEDIATE WRITTEN NOTICE: A delay of more than six months in giving notice of an accident is too long under an accident policy requiring "immediate written notice."—Sweeney v. Travelers' Ins. Co., 199 / 584. See also, Oakland Motor Co. v. Fidelity Co., 190 / 74.

LIMITATION OF ACTION: Where a policy of accident insurance contained the proviso that if any limitation in the policy should be prohibited by statutes of the state in which the policy was issued the limitation should be considered as amended so as to conform to the minimum period of limitation permitted by the statutes, and where under the statutes of the state of Illinois in which the policy was issued, it was prohibited to insert in any life insurance policy a provision limiting the time within which action might be commenced to less than three years from the date that the action accrued, the policy must be held to have been affected by the provisions of the statute and plaintiff's right of action was not restricted to the period of six months after the date named for filing the final proofs of death, as fixed by the language of the policy.—Johnson v. Fid. & Casualty Co., 184 / 406.

Optional standard provisions.

(160) SEC. 15. No such policy shall be so issued or delivered which contains any provision (1) relative to cancellation at the instance of the insurer; or, (2) limiting the amount of indemnity to a sum less than the amount stated in the policy and for which the premium has been paid; or, (3) providing for the deduction of any premium from the amount paid in settlement of claim; or, (4) relative to other insurance by the same insurer; or, (5) relative to the age limits of the policy; unless such provisions which are hereby designated as optional standard provisions shall be in the words and in the order in which they are hereinafter set forth, but the insurer may at its option omit from the policy any such optional standard provision. Such optional standard provisions if inserted in the policy shall immediately succeed the standard provisions named in section fourteen of this chapter.

(1) An optional standard provision relative to cancellation of the policy at the instance of the insurer as follows:

16. The insurer may cancel this policy at any time by written notice delivered to the insured or mailed to his last address as shown by the records of the insurer, together with cash or the insurer's check for the unearned portion of the premiums actually paid by the insured, and such cancellation shall be without prejudice to any claim originating prior thereto.

(2) An optional standard provision relative to reduction of the amount of indemnity to a sum less than that stated in the policy as follows:

17. If the insured shall carry with another company, corporation, association or society other insurance covering the same loss without giving written notice to the insurer, then in that case the insurer shall be liable only for such portion of the indemnity promised as the said indemnity bears to the total amount of like indemnity in all policies covering such loss, and for the return of such part of the premium paid as shall exceed the pro rata for the indemnity thus determined.

(3) An optional standard provision relative to deduction of premium upon settlement of claim as follows:

18. Upon the payment of claim hereunder any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(4) An optional standard provision relative to other insurance by the same insurer which shall be in such one of the following forms as may be appropriate to the indemnities provided, and in the blank spaces of which the insurer shall insert such upward limits of indemnity as are specified by the insurer's classification of risks, filed as required by this act.

(A) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity in excess of ..... dollars, the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(B) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for loss of time on account of disability in excess of ..... dollars weekly, the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(C) 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for loss other than that of time on account of disability in excess of ..... dollars, or the aggregate indemnity for loss of time on account of disability in excess of ..... dollars weekly, the excess insurance of either kind shall be void and all premiums paid for such excess shall be returned to the insured.

(5) An optional standard provision relative to the age limits of the policy shall be in the following form and in the blank spaces of which the insurer shall insert such number of years as it may elect.

20. The insurance under this policy shall not cover any person under the age of ..... years nor over the age of ..... years. Any premium paid to the insurer for any period not covered by this policy will be returned upon request.

(161) SEC. 16. No such policy shall be so issued or delivered if it contains any provision contradictory, in whole or in part, of any of the provisions hereinbefore in this subdivision designated as "standard provisions" or as "optional standard provisions"; nor shall any endorsements or attached papers vary, alter, extend, be used as substitute for, or in any way conflict with any of the said "standard provisions" or the said "optional standard provisions"; nor shall such policy be so issued or delivered if it contains any provision purporting to make any portion of the charter, constitution or by-laws of the insurer a part of the policy, unless such portion of the charter, constitution or by-laws shall be set forth in full in the policy but this prohibition shall not be deemed to apply to any statement of rates or classification of risks filed with the commissioner of insurance in accordance with the provisions of this act.

Contradictory provisions, etc., prohibited.

False statements in application.

(162) SEC. 17. The falsity of any statement in the application for any policy covered by this chapter shall not bar the right to recovery thereunder unless such false statement was made with actual intent to deceive or unless it materially affected either the acceptance of the risk or the hazard assumed by the insurer.

See Life Insurance Co. v. Schwartz, 221 / 498.

Furnishing proof blanks not waiver of company rights.

(163) SEC. 18. The acknowledgment by any insurer of the receipt of notice given under any policy covered by this chapter or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy.

Alteration of applications.

(164) SEC. 19. No alteration of any written application for insurance by erasure, insertion or otherwise, shall be made by any person other than the applicant without his written consent, and the making of any such alteration without the consent of the applicant shall be a misdemeanor. If such alteration shall be made by any officer of the insurer, or by any employe of the insurer with the insurer's knowledge or consent, then such act shall be deemed to have been performed by the insurer thereafter issuing the policy upon such altered application.

Policies issued in violation.

(165) SEC. 20. A policy issued in violation of this chapter shall be held valid but shall be construed as provided in this chapter and when any provision in such policy is in conflict with any provision of this chapter the rights, duties and obligations of the insurer, the policy holder and the beneficiary shall be governed by the provisions of this chapter.

Foreign policies.

(166) SEC. 21. The policies of insurance against accidental bodily injury or sickness issued by an insurer not organized under the laws of this state may contain, when issued in this state, any provision which the law of the state, territory or district of the United States under which the insurer is organized, prescribes for insertion in such policies, and the policies for insurance against accidental bodily injury or sickness issued by an insurer organized under the laws of this state may contain, when issued or delivered in any other state, territory, district or country, any provision required by the laws of the state, territory, district or country in which the same are issued, anything in this chapter to the contrary notwithstanding.

See sec. 152.

Non-application of subdivision.

(167) SEC. 22. Nothing in this sub-division, however, shall apply to or affect any policy of liability or workmen's compensation insurance or any general or blanket policy of insurance issued to any municipal corporation or department thereof, or to any corporation, co-partnership, association or individual employer, police or fire department, underwriter's corps, salvage bureau, or like associations or

organizations, where the officers, members or employes or classes or departments thereof are insured for their individual benefit against specified accidental bodily injuries or sickness while exposed to the hazards of the occupation or otherwise in consideration of a premium intended to cover the risks of all the persons insured under such policy.

(2) Nothing in this sub-division shall apply to or in any way affect contracts supplemental to contracts of life or endowment insurance where such supplemental contracts contain no provisions, except such as operate to safeguard such insurance against lapse or to provide a special surrender value therefor in the event that the insured shall be totally and permanently disabled by reason of accidental bodily injury or by sickness: Provided, That no such supplemental contract shall be issued or delivered to any person in this state, unless and until a copy of the form thereof has been submitted to and approved by the commissioner of insurance, under such reasonable rules and regulations as he shall make concerning the provisions in such contracts and their submission to and approval by him. Proviso.

(3) Nothing in this subdivision shall apply to or in any way affect fraternal benefit societies.

(4) The provisions of this chapter contained in clause five of section thirteen and clauses two, three, eight and twelve of section fourteen may be omitted from railroad ticket policies sold only at railroad stations, or at railroad ticket offices by railroad employes.

(168) SEC. 23. Any company, corporation, association, society or other insurer or any officer or agent thereof, which or who issues or delivers to any person in this state any policy in wilful violation of the provisions of this sub-division shall be punished by a fine of not more than one hundred dollars for each offense, and the commissioner of insurance may revoke the license of any company, corporation, association, society or other insurer of another state or country, or of the agent thereof, which or who wilfully violates any provision of this sub-division. Penalty.

Sub-Division Five.

(169) SEC. 24. It shall be lawful for any husband to insure his life for the benefit of his wife, and for any father to insure his life for the benefit of his children, or of any one or more of them; and in case that any money shall become payable under the insurance, the same shall be payable to the person or persons for whose benefit the insurance was procured, his, her or their representatives or assigns, for his, her or their own use and benefit, free from all claims of the representatives of such husband or father, or of any of his creditors; and any married woman, either in her own name or in the name of any third person as her trustee, may cause to be insured the life of her husband, or of any other person, for any definite period, or for the term of life, and the How husband may insure, free from claims.

moneys that may become payable on the contract of insurance, shall be payable to her, her representatives or assigns, free from the claims of the representatives of the husband, or of such other person insured, or of any of his creditors; and in any contract of insurance, it shall be lawful to provide that on the decease of the person for whose benefit it is obtained, before the sum insured shall become payable, the benefit thereof shall accrue to any other person or persons designated; and such other person or persons shall, on the happening of such contingency, become the lawful owner or owners of the policy of insurance, and entitled to enforce the same to the full extent of its terms, notwithstanding he, she or they may not at the time have any such insurable interest as would have enabled him, her or them to obtain a new insurance.

A wife may insure her husband's life in her favor, with a provision that, in case of her death first, the insurance be paid to their children or to their guardian, if under age.—Mut. Ben. Life Ins. Co. v. Bank, 68 / 116. But this section which protects the money payable on a life insurance policy taken out by a husband or father for the benefit of his wife or children, from the claims of creditors, does not cover the assignment to them of a policy payable to himself, his executors, or administrators or assigns.—Savings Bank v. McLean, 84 / 625. Payment of mutual benefit insurance to common-law wife.—Maccabees v. McAllister, 132 / 69. Public policy does not forbid an insured selecting as his beneficiary one not having an insurable interest in his life.—Dolan v. Catholic Mutual Benefit Ass'n, 152 / 266.

How married women may insure, free from claims.

(170) SEC. 25. That it shall be lawful for any married woman, by herself, and in her name or in the name of any third person, with his assent, as her trustee, to cause to be insured for her sole use, the life of her husband or the life of any other person, in any life insurance company of any nature whatever, located in either of the states of the United States of America or in Great Britain, for any definite period, or for the term of his natural life; and in case of her surviving her husband, or such other person insured in her behalf, the sum or net amount of the policy of insurance due and payable by the terms of the insurance, shall be payable to her, to and for her own use, free from the claims of the representatives of her husband, or of such other person insured, or of any of his creditors, but such exemption shall not apply where the amount of premium annually paid shall exceed the sum of three hundred dollars.

Death of wife before husband.

(171) SEC. 26. In case of the death of the wife before the decease of her husband, or of such other person insured, the amount of the insurance may be made payable after her death to her children, for their use, and to their guardian, if under age, or the amount of the policy may be disposed of by such married woman by a last will and testament.

Minors may insure.

(172) SEC. 27. All contracts for life, health or accident insurance made by any person between the ages of sixteen and twenty-one years for the benefit of such minor, or for the benefit of his father, mother, husband, wife, child, brother or sister, or for the surrender of such insurance, or for the discharge of any money payable or benefit accruing thereunder, shall be allowed to be good and of the same force and effect as though said minor had attained his majority at the

time of making such contract: Provided, That this section shall not have the effect of making a promissory note or other evidence of indebtedness given by such minor in payment of premium or premiums on such contracts for insurance valid, either in the hands of the original owner or subsequent purchaser thereof. Proviso, promissory notes, etc.

(173) SEC. 28. Any person who shall solicit an application for insurance upon the life of another shall, in any controversy between the assured or his beneficiary and the company issuing any policy upon such application, be regarded as the agent of the company and not the agent of the assured. Who deemed agent of company.

(174) SEC. 29. That all corporations, associations, partnerships, or individuals, doing business in this state under any charter, compact, agreement, or statute of this or any other state, involving an insurance, guaranty, contract, or pledge, for the payment of annuities or endowments, or for the payment of moneys to families, or representatives of policy or certificate holders or members, shall be considered and deemed to be life insurance companies within the meaning of the laws relating to life insurance within this state, and shall not make any such insurance, guaranty, contract, or pledge therein, or to or with any citizen or resident of this state, which shall not distinctly state therein the amount of such life benefits, the manner of payment, the period of the continuance thereof, and the amount of the annual, semiannual or quarterly premium, or by which the payment of the life benefit assured shall be contingent upon the payment of assessments made upon surviving members; and not until the securities required of life insurance companies are deposited, nor except in accordance with, and under the conditions and restrictions of, the statutes now or hereafter regulating the business of life insurance. And any person soliciting applications for insurance, or making any such insurance, guaranty, contract, or pledge as aforesaid, before the deposit of such securities, or before compliance with any condition precedent provided by the laws of this state for life insurance companies, shall be liable to a penalty of one hundred dollars for every application obtained, or insurance, guaranty, contract, or pledge made, to be sued for and recovered in the name of the people by the attorney general or prosecuting attorney of the proper county, either by action of debt or criminal prosecution; and any person who may have paid moneys therefor shall be entitled to recover the same back from the person to whom it was paid, or in case such person was an agent, then at his option from the principal of such agent, by action of assumpsit, to be brought at any time within six years after such payment. Life insurance companies, what deemed. Soliciting before deposit made, penalty for.

Defining "life insurance companies" within a general statute relating to such companies.—Citizens' Life Ins. Co. v. Insurance Com'r, 128 / 85. A reinsurance contract is not within the provisions of § 9351, C. L. 1915, providing that life insurance companies shall not make any insurance contract with any citizen of the state which shall not state distinctly the amount of life benefits, manner of payment, period of continuance and amount of premiums, and that any person who may have paid money therefor may recover same back at any time within six years from date of payment.—Warren v. Fed. Life Ins. Co., 198 / 342.

Stipulations, etc., making distinction, etc., between white and colored.

(175) SEC. 30. That no life insurance company doing business in this state shall make any distinction or discrimination between white persons and colored persons, wholly or partially of African descent, as to the premiums or rates charged for policies upon the lives of such persons, or in any other manner whatever; nor shall any such company demand or require a greater premium from such colored persons than is at that time required by such company from white persons of the same age, sex, general condition of health and prospect of longevity; nor make or require any rebate, diminution or discount upon the amount to be paid on such policy in case of death of such colored person insured; nor insert in the policy any condition, nor make any stipulation whereby such person insured shall bind himself or his heirs, executors, administrators and assigns to accept any sum less than the full amount or value of such policy in case of a claim accruing thereon by reason of the death of such person insured, other than such as are imposed on white persons in similar cases; and any such stipulations or conditions so made or inserted shall be void. Any company which shall violate any of the provisions of this section shall forfeit to the state the sum of five hundred dollars for each violation, to be recovered by the attorney general by appropriate action in any court of competent jurisdiction, and any judgment therefor may be collected in the same manner as is herein provided for collecting judgments rendered in favor of policy-holders. And any officer or agent who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding one year, or by a fine of not less than fifty dollars, and not exceeding five hundred dollars, or by both such fine and imprisonment, in the discretion of the court.

Penalty on company.

On officer or agent.

False reports by physician as to bodily health.

(176) SEC. 31. Any physician who, as medical examiner for any life or casualty insurance company, or as the reference of, or medical examiner for any person seeking insurance therein, shall knowingly make any false statement or report to the company, or any officer thereof, concerning the bodily health or condition of any applicant for insurance, or concerning any other matter or thing which might effect the propriety or prudence of granting such insurance, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be liable to a fine not exceeding one thousand dollars, or to imprisonment in the county jail not exceeding three months, in the discretion of the court, and he shall also be liable to the company in an action on the case for the full amount of any insurance obtained from such company by means or through the assistance of such false statement or report.

Penalty.

Report of company's examining physician as evidence on the question of the soundness of health of the insured.—Rhode v. Life Ins. Co., 129 / 112; Id., 132 / 503.

CHAPTER III.—CO-OPERATIVE, CASUALTY, ET CETERA, INSURANCE.

(177) SECTION 1. That any number of persons, not less than seven, residents of this state, may incorporate for the purpose of carrying on, upon the assessment or co-operative plan, the lines of casualty insurance herein enumerated. Who may incorporate.

These associations are, strictly speaking, insurance organizations, whenever, in consideration of periodical contributions, they engage to pay the member or his designated beneficiary, a benefit upon the happening of a specified contingency. —Rensenhonse v. Seeley, 72 / 617. Rival organizations for mutual benefit insurance.—Great Hive L. O. T. M. Mich. v. Supreme Hive L. O. T. M. of World, 135 / 392. Insurable interest and selection of beneficiaries.—Dolan v. Catholic Mutual Benefit Ass'n, 152 / 266. When commissioner may refuse to grant certificate of authority to an insurance company to do business.—Am. Health & Accident Ins. Co. v. Com'r of Insurance, 154 / 193.

(178) SEC. 2. The classes of insurance which may be carried on by companies incorporated under this chapter shall be as follows: Classes of insurance.

(a) Providing to members indemnity for disability or death by accident, and disability by sickness, and may provide a funeral benefit not exceeding two hundred dollars separate or in conjunction with accident and sickness indemnity.

(b) Providing indemnity to members not exceeding five hundred dollars to any one member, for loss of position arising from discharge or retirement, in companies composed of conductors, engineers and motormen of steam and electric railways, or of other similar trades or occupations.

(c) The payment of a sum or sums of money to designated beneficiaries on the death of a member or the wife of a member, or the payment of sick or funeral benefits, or any combination of the same in companies, the membership of which is confined to the members of a particular religious denomination, (voting by a two-thirds vote of all the members present after notice of intention to incorporate has been given by the trustees of such society) providing such death or funeral benefits shall not exceed twelve hundred dollars, and such sick benefits shall not exceed six dollars per week; and provided further that members of such company under adequate rates of assessments may insure their children from the age of five years to seventeen years inclusive, for a sum not to exceed one hundred dollars.

(d) For the sole purpose of paying burial benefits not to exceed five hundred dollars, where the membership is limited to ages of one year to sixty years on first application for membership therein.

See sec. 82 for valuation of business and maintenance of reserve by foreign companies upon the assessment or cooperative plan.

LOSS OF EMPLOYMENT: Under a mutual benefit certificate providing for insurance against loss of employment in cases other than discharge for absence

from engine, use of liquors and similar reasons, and referring to the application which contained the clause, "That the cause assigned by my employer for suspension or discharge shall be the sole basis of determining the liability of the association," plaintiff was not entitled to recover on his own showing that the employer discharged him for being absent from his engine and visiting saloons, and he was properly prevented at the trial from attempting to prove that he had been absent with leave and visited certain saloons on a mission of the superintendent.—Palmer v. Mut. Prot. Ass'n, 189 / 35.

Conditions precedent to commencing business.

(179) SEC. 3. No corporation doing business under subsection (a) or (b) of section two hereof shall commence business, unless it shall have procured bona fide agreements for insurance therein from at least two hundred eligible persons, and under (d) of said section from one hundred persons, shall have received at least one assessment thereon in cash from each of such persons, according to the rate and plan set forth in its articles of association, which amount so received in cash shall aggregate for (a) at least one thousand dollars; for (b) two hundred dollars and for (d) one hundred dollars; nor until it has fully organized by the election of the proper and suitable officers, and the secretary and treasurer shall have given good and sufficient bonds to the association to be held by the president of the association, for the faithful performance of their duties, which bonds shall not be less than two thousand dollars and shall be at least twice the amount of money liable to come into their hands as such officers at any one time; said bonds to be approved by the commissioner of insurance. The president and secretary of such corporation shall furnish under oath to the commissioner of insurance proof of such agreements for insurance, giving the name, residence, age and amount of insurance, applied for by each applicant, and the amount of assessment actually paid by each applicant, and also proof of the election and qualification of the officers, and the custodian of the funds of any such corporation shall furnish to the commissioner of insurance a certificate under oath that he has received and holds in trust for the benefit of the beneficiaries of such applicants, the sum required as above set forth herein.

Duty of president and secretary in furnishing proof.

Directors, or trustees, number and term.

(180) SEC. 4. The property, business and affairs of such corporation, organized under the laws of this state, shall be managed by not less than five nor more than twenty directors or trustees, to be chosen by and from the members at their annual meeting. They shall hold office for one year, and until their successors are chosen: Provided, It shall be lawful to designate the trustees or directors for the first year in the articles of association.

Proviso.

Company books, etc., where kept. Emergency fund.

(181) SEC. 5. The books, papers and documents of such corporation organized under the laws of this state shall be kept at its principal office. Every such corporation shall provide for the accumulation of an emergency fund, which shall not at any time be less than the maximum amount at risk on any one policy, which fund, together with the income thereon, shall be a trust fund for the payment of death claims, or other benefits provided for in their policies or certificates. Such fund, with the increase thereof, shall be deposited under trust deeds, to the credit of the corporate name of

Trust fund.

Deposited under trust deeds.

the incorporation in some incorporated bank or banks, or may be invested by the trustees in its corporate name. Annual statements of the transactions and financial condition of such corporation shall be made at the annual meeting of its members, and its certificate or policy account shall be mailed to every member within thirty days from the date of filing such statement: Provided, That any such corporation may provide in its policy for the payment at stated periods, of premiums or assessments, for the purpose of accumulating and maintaining and may accumulate and maintain a mortuary, an emergency and a reserve fund, or any one or more of such funds, and may provide in such policy that the members may receive the benefit of any surplus moneys not needed by such corporation. Nothing contained in this chapter shall be construed to permit any contract promising any fixed cash payment to any certificate or policy holder, excepting in the contingency of death by accident or total permanent physical disability, or as otherwise provided for in this chapter. Every corporation, association, or society organized under this chapter, except those organized under sub-division (c) of section two, shall maintain a reserve or emergency fund, which said fund shall be deposited with the state treasurer, and shall be the sum of two thousand dollars, except as hereinafter provided: Provided, That whenever the amount of the assessments or premiums paid into the home office of any such corporation, association or society shall exceed the sum of twenty-five thousand dollars, and shall not exceed fifty thousand dollars, in any one year, such reserve or emergency fund shall be maintained and deposited with the state treasurer as aforesaid, in the sum of three thousand dollars: And provided further, That in case the amount of assessments or premiums paid into the home office of any such corporation, association or society shall exceed the sum of fifty thousand dollars in any one year, such reserve or emergency fund shall be maintained and deposited with the state treasurer as aforesaid, in the sum of five thousand dollars. Such funds shall be in cash or in the same class of securities required by law for the investment of funds by insurance corporations; and nothing herein contained shall prevent the creation and accumulation of other funds in excess of the amounts herein required to provide for the purpose of such corporation.

Annual statement, policy account.

Proviso, premiums, etc.

Reserve deposited with state treasurer, $2,000.

Proviso, $3,000.

Further proviso, $5,000.

To be in cash or securities.

Under the proviso, an assoeiation, when its artieles are framed with respect thereto, is authorized to write whole-life policies, term insurance, advanee payment insurance, and insurance upon the joint lives of two or more persons.—Home Life Ins. Co. v. Maynard, 112 / 497.

(182) SEC. 6. Every person insured in any corporation organized under this chapter shall be a member of such corporation, and shall be entitled at all meetings of the members to at least one vote, and may vote in person or by proxy under such rules and regulations as may be provided in the by-laws of such corporation. The books of such corporation or association shall be open for inspection by any member of said organization at any of its meetings.

Privileges of members.

Notice of assessment, what to specify.

(183) SEC. 7. Every notice of an assessment or call made by any corporation or association organized, existing or doing business hereunder shall specify the amount to be paid, the loss or benefit for the payment of which the call or assessment is made, except where premiums are made payable in the policy at stated intervals, and the time and place for the payment of the same, together with a correct statement of the mortuary or beneficiary fund, and of the emergency fund, showing the receipts, disbursements, and balance at the close of the calendar month.

The assessment must have been made by the proper authority and notice thereof must have been given by the proper officer, or there can be no forfeiture for non-payment.—Bates v. Detroit Mut. Ben. Ass'n, 51 / 587. Nor can the policy be forfeited unless the notice is in the form required by the by-laws.—Miner v. Mich. Mut. Ben. Ass'n, 63 / 338; Dowling v. Life Indemnity Co., 116 / 471. Or the statutes.—Warner v. Nat'l Life Ass'n, 100 / 157. Time within which assessments must be paid, to prevent a forfeiture of benefits, does not begin to run, in case of notification by mail, until the notice is received, or ought to have been received in the ordinary course of the mails.—Shelden v. National Masonic Accident Ass'n, 122 / 403. In case of question as to the time within which assessments must be paid to prevent a forfeiture, the articles of association will govern, instead of by-laws adopted by the board of directors.—Shelden v. National Masonic Accident Association, 122 / 403. Life insurance policy not forfeited for non-payment of an assessment, when the understanding at the issuing of the policy was that a collector would be sent for the assessments monthly, to the home of the insured, and no notification was afterward given that payments were to be made elsewhere.—Baker v. Mich. Mut. Protective Ass'n, 118 / 431. The collection of an assessment from a member of a mutual benefit society does not constitute a waiver of a provision avoiding the certificate in case of untrue statements in the application, where the officers were not aware of any false statements when they accepted payments.—Finch v. Modern Woodmen of America, 113 / 646. The acceptance of a past due assessment by a benefit society and its retention until after the commencement of suit constitutes a waiver of the right to assert a forfeiture of the certificate.—Lord v. National Protective Society, 134 / 357. Waiver of forfeiture for non-payment of assessment.—Jones v. Preferred Bankers' Life Assurance Co., 120 / 211. Where the secretary of the lodge sent out an unauthorized assessment notice, and at a later meeting of the lodge he was directed to mail notices of the assessment to each member, and new notices were sent out pursuant to the directions, the time for complying with the same dated from the second notice, the action of the society amounting to an extension of the time in which to pay the dues.—Zender v. Royal Ark, 190 / 624.

Proceeds of policy, to whom paid.

(184) SEC. 8. The proceeds of any certificate or policy issued by any such corporation or association, except such as are expressly made payable to a creditor or the legal representatives of a member, shall be payable to the beneficiary named therein free from all claims of the representatives of such member, or of any of his creditors.

A person insured in a benefit society may, unless prohibited by the terms of the certificate or the rules of the society, charge the beneficiary by will with the payment of a debt out of the proceeds of the insurance.—Woodruff v. Tilman, 112 / 188. The right, which was before inchoate and contingent, becomes, upon death, fixed and certain in the beneficiary. He may compel the corporation to levy the assessment if it refuses, after the time limited for payment.—Union Mut. Ass'n v. Montgomery, 70 / 595. Where the insurance is payable to certain parties, if living, but, if not living, then to others, the terms, "if living" and "if not living" refer to living at the time of the death of the insured.—Id. Proof of death.—Tesman v. United Friends, 103 / 185. The holder of a certificate of membership, which provides that suit must be brought within nine months after death, cannot sue after the expiration of that time.—Shackett v. Mut. Ben. Soc'y, 107 / 65. A provision in the laws of a mutual benefit association that the decision of a tribunal, created by the constitution to pass upon death claims, shall be final and bar any suit at law or in equity therefor, sustained as within the rulings in Van Poucke v. Society, 63 / 378; Canfield v. Knights of Maccabees, 87 / 626; Hembeau v. Knights of Maccabees, 101 / 161; Fillmore v. Maccabees, 103 / 437; Derry v. Great Hive, L. O. T. M., 135 / 494; Barker v Great Hive, L. O. T. M., 135 / 499. A mutual benefit association cannot take advantage of a delay in furnishing proofs of loss occasioned by the neglect of duty by its own secretary, in supplying blanks for such proofs, after a request for the same by the beneficiary.—Shelden v. National Masonic Accident Ass'n, 122 / 403. When the right to require the submission of proofs of death in the form prescribed by the regulations of a mutual benefit association has been once expressly waived it cannot be afterward insisted upon.—Fillmore v. Maccabees, 109 / 13. On marriage of insured as affecting previous designation of beneficiary.—Ladies'

Ann. A. O. H. v. Flanigan, 190 / 675. The insured in a life policy of a mutual association whose constitution contained a provision permitting a change of beneficiary by signing a waiver of the first certificate was authorized to make the change without the assent of the beneficiary or without notice to him, because under the contract he obtained no vested right in the insurance.—New Era Ass'n v. Kuyat, 191 / 646. There is no vested right which passes to a beneficiary who has no contract founded upon valuable consideration passing to the insured. Such vested right is not created by the possession of the policy and payment of the dues.—Modern Brotherhood v. Hudson, 194 / 124.

Policy not to be cancelled without notice.

(185) SEC. 9. No policy or certificate issued by any corporation or association doing business under the provisions of this chapter shall be cancelled for the non-payment of any assessment, periodical call or dues, without first having mailed to the holder of such policy or certificate, at his or her last known postoffice address, a notice stating the amount of such assessment, periodical call or dues, and the limit of time in which the same must be paid. An affidavit made by the person having charge of the mailing of such notices, that any such notice was mailed, stating the date of mailing shall be prima facie evidence thereof.

Affidavit.

Forfeitures of policies of insurance are not to be favored.—Milner v. Mich. Mut. Ben. Ass'n, 63 / 343. Mandamus will lie to restore a member of a mutual benefit association to membership, of which he has been unlawfully deprived.—Meurer v. Detroit M. B. & P. Ass'n, 95 / 451. Certificate of mutual benefit society held void for untrue statement in application.—Finch v. Modern Woodmen of America, 113 / 616. Lapse of policy for non-payment.—Geddes v. A. A. R. R. Employes' Relief Ass'n, 178 / 486. Where there is doubt as to whether the particular question claimed to have been falsely answered was in fact asked of the insured a question for the jury is presented.—Clark v. North American Union, 179 / 131. Admissibility of evidence of a mere clerk or bookkeeper of a local agent under § 13553, C. L. '15.—Rousseau v. Brotherhood of American Yeomen, 177 / 568; 186 / 101. The term "agent" does not have reference to a subagent whose appointment was not authorized or made by defendant corporation. —Id.

Transfer or reinsurance of risk; approval of.

(186) SEC. 10. No such corporation, association or society, organized under the laws of this state, shall transfer its risks or reinsure them in any other corporation unless the contract of transfer or reinsurance is first submitted to and approved by a two-thirds vote of a meeting of the policy or certificate holders of such corporation called to consider the same, of which meeting a written or printed notice shall be mailed to each policy or certificate holder at least thirty days before the date fixed for such meeting. Such vote or approval of a contract or reinsurance or transfer of its risks, shall act as a dissolution of the corporation, association or society; and all liability upon its certificates shall cease upon the expiration of five days following such vote, but its officers may thereafter perform any act necessary to close its affairs; and upon such dissolution as aforesaid the state treasurer shall upon the written order of the commissioner of insurance at once return and pay over to the proper officers of such corporation, association or society the reserve or emergency fund deposited with him as hereinbefore provided.

Dissolution.

Return of reserve fund.

Certain transfers not to be made.

(187) SEC. 11. No such corporation, association or society, organized under the laws of this state, shall transfer its risks or assets, or any part thereof, to, or reinsure its risks or any part thereof, in any insurance corporation or association of any other state or country which is not at the time of such transfer or reinsurance authorized to do business in this state, under the laws thereof.

Disposition of reserve upon insolvency.

(188) SEC. 12. In event any such corporation, association or society be adjudged insolvent the state treasurer shall, upon the written order of the commissioner of insurance, pay over to the receiver thereof the amount remaining in the reserve or emergency fund deposited with him as aforesaid, and the receiver shall apply said fund, or so much thereof as is necessary, to the payment of all outstanding claims or other legal indebtedness against such corporation, association or society, and if thereafter there remain a balance the same shall be paid to the proper officers of said corporation, association or society.

Societies not affected by chapter.

(189) SEC. 13. Nothing in this chapter shall be construed to affect the grand or subordinate lodges of the Independent Order of Odd Fellows, Free and Accepted Masons, Ancient Order of United Workmen, Knights of Pythias, Modern Woodmen of America, Knights of Maccabees or other similarly conducted secret societies, maintaining grand or subordinate lodges, with ritualistic form of work and representative form of government, which may be now or hereafter formed for the sole benefit of members and their beneficiaries, and not for the profit from the business of insurance.

CHAPTER IV.—FRATERNAL BENEFICIARY SOCIETIES.

Fraternal benefit societies defined.

(190) SECTION 1. Fraternal Benefit Societies Defined. Any corporation, society, order or voluntary association, without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system with ritualistic form of work and representative form of government, and which shall make provision for the payment of benefits in accordance with section five hereof, is hereby declared to be a fraternal benefit society.

Lodge system defined.

(191) SEC. 2. Lodge System Defined. Any society having a supreme governing or legislative body and subordinate lodges or branches by whatever name known, into which members shall be elected, initiated and admitted in accordance with its constitution, laws, rules, regulations and prescribed ritualistic ceremonies, which subordinate lodges or branches shall be required by the laws of such society to hold regular or stated meetings at least once in each month, shall be deemed to be operating on the lodge system.

Initiation being made by the by-laws a prerequisite to membership, a party who has not been regularly initiated on account of her physical condition cannot recover. Receipts and retention of dues by the grand lodge cannot be urged as a waiver, where it was based upon the mistaken belief that the insured was a member, the dues being tendered back immediately, upon discovery of the mistake.—Kolosinski v. Modern Brotherhood of America, 175 / 684.

Representative form of government defined.

(192) SEC. 3. Representative Form of Government Defined. Any such society shall be deemed to have a representative form of government when it shall provide in its constitution and laws for a supreme legislative or governing body,

composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members as may be prescribed by its constitution and laws: Provided, That the elective members shall constitute a majority in number and have not less than two-thirds of the votes, nor less than the votes required to amend its constitution and laws: And provided further, That the meetings of the supreme or governing body, and the election of officers, representatives or delegates shall be held as often as once in four years. The members, officers, representatives or delegates of a fraternal benefit society shall not vote by proxy.

Proviso.

Further proviso.

(193) SEC. 4. Exemptions. Except as herein otherwise provided, such societies shall be governed by this chapter, and shall be exempt from all provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose, and no law hereafter enacted shall apply to them, unless they are expressly designated therein.

Exemptions.

(194) SEC. 5. Benefits. Sub-division 1. Every society transacting business under this chapter shall provide for the payment of death benefits, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age: Provided, The period of life at which the payment of benefits for disability on account of old age shall commence, shall not be under seventy years, and may provide for monuments or tombstones to the memory of its deceased members, and for the payment of last sickness and funeral benefits. Such society shall have the power to give a member, when permanently disabled or on attaining the age of seventy, all, or such portion of the face value of his certificate as the laws of the society may provide: Provided, That nothing in this chapter contained shall be so construed as to prevent the issuing of benefit certificates for a term of years less than the whole of life which are payable upon the death or disability of the member occurring within the term for which the benefit certificate may be issued. Such society shall, upon written application of the member, have the power to accept a part of the periodical contributions in cash, and charge the remainder, not exceeding one half of the periodical contribution, against the certificate with interest payable or compounded annually at a rate not lower than four per cent per annum: Provided, That this privilege shall not be granted except to societies which have readjusted or may hereafter readjust their rates of contributions, and to contracts affected by such readjustment.

Benefits.

Proviso, old age.

Proviso, term less than whole.

Proviso, readjustment.

Sub-division 2. Any society which shall show by the annual valuation hereinafter provided for that it is accumulating and maintaining the reserve not lower than the usual reserve computed by the American experience table and four per cent interest, may grant to its members extended and paid-up protection, or such withdrawal equities as its constitution and

Paid-up protection, etc., when may be extended.

Proviso, limit. laws may provide: Provided, That such grants shall in no case exceed in value the portion of the reserve to the credit of such members to whom they are made.

Beneficiaries. (195) SEC. 6. Beneficiaries. The payment of death benefits shall be confined to wife, husband, relative by blood to the fourth degree, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepchildren, children by legal adoption, adopting parents, or to a person or persons dependent upon the member: Provided, That if after the issuance of the original certificate the member shall become dependent upon an incorporated charitable institution, he shall have the privilege with the consent of the society to make such institution his beneficiary. Within the above restrictions each member shall have the right to designate his beneficiary and, from time to time, have the same changed in accordance with the laws, rules or regulations of the society, and no beneficiary shall have or obtain any vested interest in the said benefit until the same has become due and payable upon the death of the said member: Provided, That any society may by its laws limit the scope of beneficiaries within the above classes: Provided further, That where an applicant or member has no relative, as above provided, to whom he may make his certificate payable, in such case he may designate any other person or make his estate his beneficiary.

Proviso, charitable institutions.

Member may designate.

Proviso, society may limit scope.

Further proviso, where no relative.

Am. 1921, Act 108.

Upon the effect of the death of assured before contemplated change of beneficiary is complete.—Supreme Court, I. O. F. v. Frise, 183 / 186. Effect of divorce upon beneficiary's rights.—Schieler-Bund v. Knack, 184 / 95. In an interpleader suit against the divorced wife, and widow of a deceased member to determine their respective rights under a benefit certificate originally issued to the divorced wife as beneficiary during coverture, held, that the question of liability to the second wife was a proper issue for determination, and that she was entitled to the fund.—Knights of the Maccabees v. Brown, 186 / 284. The clerk of a local camp of a beneficial society who was forbidden by the by-laws of the order from waiving any provisions of its policies could not waive that portion of the certificate which limited the persons who might become beneficiaries under the policy to heirs, blood relatives, or persons dependent on the applicant or member of the family.—Sowiczki v. Modern Woodmen, 192 / 265. Transfer of benefits.—See Modern Brotherhood v. Hudson, 194 / 124. Where a by-law provides that benefits shall only be paid or certificates transferred to certain persons named in such by-laws, benefits should be paid, where the beneficiary named in a certificate is not living at the death of the insured, to the persons named in the by-law in the order given therein, although the by-law does not so provide.—Switchmen's Union v. Gillerman, 196 / 141. In the absence of a controlling statute or by-law or some contract provision on the subject, the designation of the wife of a beneficial association by name as the beneficiary in a benefit certificate is not abrogated ipso facto by a subsequent decree of absolute divorce granted to the wife.—Order of Hibernians v. Mahon, 221 / 213.

Qualifications for membership. (196) SEC. 7. Qualifications for Membership. Any society may admit to beneficial membership any person not less than sixteen and not more than sixty years of age, who has been examined by a legally qualified physician, and whose examination has been supervised and approved in accordance with the laws of the society: Provided, That any beneficiary member of such society who shall apply for a certificate providing for disability benefits, need not be required to pass an additional medical examination therefor. Nothing herein contained shall prevent such society from accepting general or social members.

Proviso.

(197) SEC. 8. Certificate. Every certificate issued by any such society shall specify the amount of benefit provided thereby, and shall provide that the certificate, the charter or articles of incorporation, or, if a voluntary association, the articles of association, the constitution and laws of the society and the application for membership and medical examination, signed by the applicant, and all amendments to each thereof, shall constitute the agreement between the society and the member, and copies of the same certified by the secretary of the society, or corresponding officer, shall be received in evidence of the terms and conditions thereof, and any changes, additions or amendments to said charter or articles of incorporation, or articles of association, if a voluntary association, constitution or laws duly made or enacted subsequent to the issuance of the benefit certificate shall bind the member and his beneficiaries, and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership.

Certificate, what to specify and provide for.

Amendment to charter, etc., to bind member, etc.

Construction of policy.—O'Brien v. Amer. Yeomen, 183 / 86. A member who has been suspended may only be reinstated in strict conformity with the by-laws and has no rights until actual reinstatement has taken place.—Edgerly v. Ladies of Maccabees, 185 / 149. Notwithstanding a written waiver of the statutory privilege in a decedent's application for insurance, the opinions and testimony of her attending physicians based on facts learned while they were in attendance as professional advisers was not admissible: The clause contained in the application was void as a waiver under Act 234, P. A. 1909, (Judicature Act, chap. XVII, sec. 62) which creates the only exception permitted by law to the general privilege prevailing as to physician and patient, and limits the right of waiver to the heirs-at-law of decedent in a will contest.—Gilchrist v. Mystic Workers, 188 / 466. The basis of an estoppel of the insurer to claim fraud in the making of false statements in an application for mutual benefit insurance as to the use of liquor and drugs, is not afforded by a mere rumor communicated by a local officer of the society to a deputy supreme oracle of the head camp after the application is signed and before the policy is signed.—Cameron v. Royal Neighbors, 197 / 173.

(198) SEC. 9. Funds. Sub-division 1. Any society may create, maintain, invest, disburse and apply an emergency, surplus or other similar fund in accordance with its laws. Unless otherwise provided in the contract, such funds shall be held, invested, and disbursed for the use and benefit of the society, and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in sub-section two of section five of this chapter. The funds from which benefits shall be paid and the funds from which the expenses of the society shall be defrayed shall be derived from periodical or other payments by the members of the society and accretions of said funds: Provided, That no society shall hereafter be incorporated in this state, which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted, when valued upon the basis of the national fraternal congress table of mortality as adopted by the national fraternal congress, August twenty-third, eighteen hundred ninety-nine, or any higher standard, with interest assumption not more than four per cent per annum, nor shall any such society be

Funds, how held, invested, etc.

Proviso, mortuary obligations.

admitted to transact business in this state which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted, when valued upon one of the bases named in section twenty-three-a of this chapter and applicable to such society, nor write or accept members for temporary or permanent disability benefits, except upon tables based upon reliable experience, with an interest assumption not higher than four per cent per annum.

Fixed liabilities.

Sub-division 2. Deferred payments or installments of claims shall be considered as fixed liabilities on the happening of the contingency upon which such payments or installments are thereafter to be paid. Such liability shall be the present value of such future payments or installments upon the rate of interest and mortality assumed by the society for valuation, and every society shall maintain a fund sufficient to meet such liability regardless of proposed future collections to meet any such liabilities.

Upon the secession for cause of a subordinate court, the funds of the seceding body that was found by the trial court to be justified in withdrawing, were rightly retained by the local court, where, by the charter, the fund was raised wholly through voluntary contributions of the lodge and the superior court contributed nothing to the fund and had no interesst in it.—Foresters v. Germ.-Am. Foresters, 192 / 380.

Investment of funds.

(199) SEC. 10. Investment. Every society shall invest its funds only in the following mentioned securities:

(1) In bonds or notes secured by mortgage lien upon unencumbered real estate worth at least double the amount loaned.

(2) In the bonds of the United States, or any other country, or any of the political sub-divisions thereof, regularly formed and authorized to issue such bonds, or in the valid public debt or bonds of any county, city, township, village, school district, or any other legally and regularly formed district therein: Provided, That such government, political sub-division, state, municipality, or district, has not in the ten years preceding the time of such investment repudiated its debt or failed to pay the same or the interest due thereon or upon any part of such debt: Provided further, That any foreign society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state or country in which it is incorporated shall be held to meet the requirements of this act for the investment of funds.

Proviso, repudiation.

Further proviso, foreign societies.

Distribution of funds.

(200) SEC. 11. Distribution of Funds. Every provision of the laws of the society for payment by members of such society, in whatever form made, shall distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes or the net accretions of either or any of said funds shall be used for expenses.

Who may organize.

(201) SEC. 12. Organization. Seven or more persons, citizens of the United States, and a majority of whom are citizens of this state, who desire to form a fraternal benefit

society as defined by this chapter, may make and sign (giving their addresses) and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation in which shall be stated: Articles of incorporation.

First, The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company already transacting business in this state, as to mislead the public or to lead to confusion;

Second, The purpose for which it is formed which shall not include more liberal powers than are granted by this chapter: Provided, That any lawful, social, intellectual, educational, charitable, benevolent, moral or religious advantages may be set forth among the purposes of the society and the mode in which its corporate powers are to be exercised: Proviso.

Third, The names, residences and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control and management of the affairs and funds of the society for the first year, or until the ensuing election at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate. Such articles of incorporation and duly certified copies of the constitution and laws, rules and regulations, and copies of all proposed forms of benefit certificates, applications therefor and circulars to be issued by such society, and a bond in the sum of five thousand dollars, with sureties approved by the commissioner of insurance, conditioned upon the return of the advance payments as provided in this section to applicants, if the organization is not completed within one year, shall be filed with the commissioner of insurance, who may require such further information as he deems necessary, and if the purposes of the society conform to the requirements of this chapter and all provisions of law have been complied with, the commissioner of insurance shall so certify and retain and record or file the articles of incorporation, and furnish the incorporators a preliminary certificate authorizing said society to solicit members as hereinafter provided. Filing required. Bond. Where filed. Preliminary certificate.

Upon receipt of said certificate from the commissioner of insurance, said society may solicit members for the purpose of completing its organization, and shall collect from each applicant the amount of not less than one regular monthly payment, in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. But no such society shall incur any liability other than for such advanced payments, nor issue any benefit certificate nor pay or allow, or offer or promise to pay or allow, to any person any death or disability benefit until actual bona fide applications for death benefit certificates have been secured upon at least five hundred lives for at least one thousand dollars each and all such applicants for death benefits shall have been regularly examined by legally qualified practicing physicians, and When may solicit members. When may incur liability.

certificates of such examinations have been duly filed and approved by the chief medical examiner of such society; nor until there shall be established ten subordinate lodges or branches into which said five hundred applicants have been initiated; nor until there has been submitted to the commissioner of insurance, under oath of the president and secretary, or corresponding officers of such society, a list of such applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, rate of stated periodical contributions, which shall be sufficient to provide for meeting the mortuary obligations contracted, when valued for death benefits upon the basis of the national fraternal congress table of mortality, as adopted by the national fraternal congress August twenty-three, eighteen hundred ninety-nine, or any higher standard at the option of the society, and for disability benefits by tables based upon reliable experience, and for combined death and permanent total disability benefits by tables based upon reliable experience, with an interest assumption not higher than four per cent per annum; nor until it shall be shown to the commissioner of insurance by the sworn statement of the treasurer, or corresponding officer of such society, that at least five hundred applicants have each paid in cash at least one regular monthly payment as herein provided per one thousand dollars of indemnity to be effected, which payments in the aggregate shall amount to at least twenty-five hundred dollars; all of which shall be credited to the mortuary or disability fund on account of such applicants, and no part of which may be used for expenses. Said advanced payments shall, during the period of organization, be held in trust, and, if the organization is not completed within one year as hereinafter provided, returned to said applicants. The commissioner of insurance may make such examination and require such further information as he deems advisable, and, upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to such society a certificate to that effect. Such certificate shall be prima facie evidence of the existence of such society at the date of such certificate. The commissioner of insurance shall cause a record of such certificate to be made and a certified copy of such record may be given in evidence with like effect as the original certificate. No preliminary certificate granted under the provisions of this section shall be valid after one year from its date, or after such further period, not exceeding one year, as may be authorized by the commissioner of insurance, upon cause shown, unless the five hundred applicants herein required have been secured and the organization has been completed as herein provided; and the articles of incorporation and all proceedings thereunder shall become null and void in one year from the date of said preliminary certificate, or at the expiration of said extended period, unless such

Advanced payments held in trust.

Certificate of authority, issue of.

Tenure of preliminary certificate.

When articles, etc., void.

society shall have completed its organization and commenced business as herein provided. When any domestic society shall have discontinued business for the period of one year, or has less than four hundred members, its charter shall become null and void. Every such society shall have the power to make a constitution and by-laws for the government of the society, the admission of its members, the management of its affairs and the fixing and readjusting of the rates of contribution of its members from time to time; and it shall have the power to change, alter, add to or amend such constitution and by-laws and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

When charter void.

Power to make constitution, by-laws, etc.

Amendments.

(202) SEC. 13. Powers Retained — Reincorporation — Amendments. Any society now engaged in transacting business in this state may exercise after the passage of this act all the rights conferred thereby, and all of the rights, powers and privileges now exercised or possessed by it under its charter or articles of incorporation not inconsistent with this chapter if incorporated; or, if it be a voluntary association, it may incorporate hereunder. But no society already organized shall be required to reincorporate hereunder, and any such society may amend its articles of incorporation from time to time in the manner provided therein or in its constitution and laws, and all such amendments shall be filed with the commissioner of insurance and shall become operative upon such filing, unless a later time be provided in such amendments or in its articles of incorporation, constitution or laws.

Powers retained; reincorporation; amendments.

(203) SEC. 14. Consolidation and mergers. No fraternal benefit society organized under the laws of this state to do the business of life, accident, or health insurance, shall consolidate or merge with any other fraternal benefit society, or reinsure its insurance risks, or any part thereof, with any other fraternal benefit society, or assume or reinsure the whole or any portion of the risks of any other fraternal benefit society, except as herein provided. No fraternal benefit society or subordinate body thereof shall merge, consolidate with or be reinsured by any company or association not licensed to transact business as a fraternal beneficiary society.

Consolidation and mergers.

Am. 1923, Act 51.

(204) SEC. 14-a. When any such fraternal benefit society shall propose to consolidate or merge its business or to enter into any contract of reinsurance, or to assume or reinsure the whole or any portion of the risks of any other fraternal benefit society the proposed contract in writing setting forth the terms and conditions of such proposed consolidation, merger or reinsurance shall be submitted to the legislative or governing bodies of each of said parties to said contract after due notice, and, if approved by a vote of two-thirds of the members of the supreme legislative or governing body

Proposed contract, how submitted.

of each of said societies, such contract, as so approved, shall be submitted to the commissioner of insurance of this state for his approval and the parties to said contract shall at the same time submit a sworn statement showing the financial condition of each of such fraternal benefit societies as of the thirty-first day of December preceding the date of such contract: Provided, That such insurance commissioner may, within his discretion, require such financial statement to be submitted as of the last day of the month preceding the date of such contract. The commissioner of insurance shall thereupon consider such contract of consolidation, merger or reinsurance, and, if satisfied that the interests of the certificate holders of such fraternal benefit societies are properly protected, and that such contract is just and equitable to the members of each of such societies, and that no reasonable objection exists thereto, shall approve said contract as submitted. In case the parties corporate to such contract shall have been incorporated in separate states, or territories, such contract shall be submitted as herein provided to the commissioner of insurance of each of such incorporating states, or territories, to be considered and approved separately by each of such commissioners of insurance. When said contract of consolidation, merger or reinsurance shall have been approved as hereinabove provided, such commissioner or commissioners of insurance shall issue a certificate to that effect, and thereupon the said contract of consolidation, merger or reinsurance shall be in full force and effect. In case such contract is not approved the fact of its submission and its contents shall not be disclosed by the commissioner of insurance.

Approval of commissioner.

Proviso, financial statement.

Other states.

When merger, etc., effective.

Added 1923, Act 51.

(205) SEC. 14-b. All necessary and actual expenses and compensation incident to the proceedings provided hereby shall be paid as provided by such contract of consolidation, merger or reinsurance: Provided, however, That no brokerage or commission shall be included in such expenses and compensation or shall be paid to any person by either of the parties to any such contract in connection with the negotiation therefor or execution thereof, nor shall any compensation be paid to any officer or employes of either of the parties to such contract for directly or indirectly aiding in effecting such contract of consolidation, merger or reinsurance. An itemized statement of all such expenses shall be filed with the insurance commissioner, or commissioners, as the case may be, subject to approval, and when approved the same shall be binding on the parties thereto. Except as fully expressed in the contract of consolidation, merger or reinsurance, or itemized statement of expenses, as approved by the commissioner or commissioners of insurance, as the case may be, no compensation shall be paid to any person or persons, and no officer or employe of the state shall receive any compensation, directly or indirectly, for in any manner aiding,

Expense, how paid.

Proviso, commissions.

Itemized expense statement.

promoting or assisting any such consolidation, merger or reinsurance.

Added Id.

(206) SEC. 14-c. Penalties. Any person violating any of the provisions of the three sections next preceding this section shall be guilty of a felony, and upon conviction shall be liable to a fine of not more than five thousand dollars, or to imprisonment for not more than five years, or to both fine and imprisonment. Penalty.

Added Id.

(207) SEC. 15. Annual License. Societies which are now authorized to transact business in this state may continue such business until the first day of April next succeeding the passage of this act, and the authority of such societies may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding April: Provided, however, The license shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the society shall pay the commissioner of insurance five dollars. A duly certified copy or duplicate of such license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter. Annual license. Proviso. Fee.

(208) SEC. 16. Admission of Foreign Society. No foreign society now transacting business, organized prior to the passage of this act, which is not now authorized to transact business in this state, shall transact any business herein without a license from the commissioner of insurance. Any such society shall be entitled to a license to transact business within this state upon filing with the commissioner a duly certified copy of its charter or articles of association; a copy of its constitution and laws, certified by its secretary or corresponding officer; a power of attorney to the commissioner as hereinafter provided; a statement of its business under oath of its president and secretary, or corresponding officers, in the form required by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state satisfactory to the commissioner of insurance of this state; a certificate from the proper official in its home state, province or country, that the society is legally organized; a copy of its contract, which must show that benefits are provided for by periodical, or other payments by persons holding similar contracts; and upon furnishing the commissioner such other information as he may deem necessary to a proper exhibit of its business and plan of working, and upon showing that its assets are invested in accordance with the laws of the state, territory, district, province or country where it is organized, he shall issue a license to such society to do business in this state until the first day of the succeeding April, and such license shall, upon compliance with the provisions Admission of foreign society. Documents filed.

of this chapter, be renewed annually, but in all cases to terProviso. minate on the first day of the succeeding April: Provided, however, That license shall continue in full force and effect until the new license be issued or specifically refused. Any foreign society desiring admission to this state, shall have the qualifications required of domestic societies organized under this chapter, and have its assets invested as required by the laws of the state, territory, district, country, or provFee. ince where it is organized. For each such license or renewal the society shall pay the commissioner five dollars. When the commissioner refuses to license any society, or revokes its authority to do business in this state, he shall reduce his ruling, order or decision to writing and file the same in his office, and shall furnish a copy thereof, together with a statement of his reasons, to the officer of the society, upon request, and the action of the commissioner shall be reviewable by proper proceedings in any court of competent jurisdiction Proviso. within the state: Provided, however, That nothing contained in this or the preceding section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this state during the time such society was legally authorized to transact business herein.

Service of process. (209) SEC. 17. Power of Attorney and Service of Process. Every society, whether domestic or foreign, now transacting business in this state shall, within thirty days after the passage of this act, and every such society hereafter applying for admission, shall, before being licensed, appoint in writing the commissioner of insurance and his successors in office to be its true and lawful attorney, upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served upon such attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by said commissioner of insurance, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the In duplicate. original thereof might be admitted. Service shall only be made upon such attorney, must be made in duplicate upon the commissioner of insurance, or, in his absence upon the person in charge of his office, and shall be deemed sufficient Proviso, when not binding. service upon such society: Provided, however, That no such service shall be valid or binding against any such society when it is required thereunder to file its answer, pleading or defense in less than thirty days from the date of mailing the copy of such service to such society. When legal process against any such society is served upon said commissioner of insurance he shall forthwith forward by registered mail one of the duplicate copies prepaid and directed to its secretary or corresponding officer. Legal process shall not be served upon any such society except in the manner provided herein.

Service of process on agent.—Farrow v. Railway Conductors' Cooperative Protective Association, 178 / 639. Appearance to object to the jurisdiction of the court is not a submission to the jurisdiction or a general appearance.—Id.

Place of meeting; location of office.

(210) SEC. 18. Place of Meeting—Location of Office. Any domestic society may provide that the meetings of its legislative or governing body may be held in any state, district, province or territory wherein such society has subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state; but its principal office shall be located in this state.

No personal liability.

(211) SEC. 19. No Personal Liability. Officers and members of the supreme, grand or any subordinate body of any such incorporated society shall not be individually liable for the payment of any disability or death benefit provided for in the laws and agreements of such society; but the same shall be payable only out of the funds of such society and in the manner provided by its laws.

Waiver of provisions of laws.

(212) SEC. 20. Waiver of the Provisions of the Laws. The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society, and the same shall be binding on the society and each and every member thereof and on all beneficiaries of members.

Benefit not attachable.

(213) SEC. 21. Benefit not Attachable. No money or other benefit, charity or relief or aid to be paid, provided or rendered by any such society shall be liable to attachment, garnishment or other process, or be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment.

Amendment of constitution and laws.

(214) SEC. 22. Constitution and Laws—Amendment. Every society transacting business under this chapter shall file with the commissioner of insurance a duly certified copy of all amendments of or additions to its constitution and laws within ninety days after the enactment of the same. Printed copies of the constitution and laws as amended, changed or added to, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of the legal adoption thereof.

Annual and valuation reports.

(215) SEC. 23. Annual Reports. Every society transacting business in this state shall annually, on or before the first day of March, file with the commissioner of insurance, in such form as he may require, a statement under oath of its president and secretary or corresponding officers, of its condition and standing on the thirty-first day of December next preceding and of its transactions for the year ending on that date, and also shall furnish such other information as the commissioner may deem necessary to a proper exhibit of its business and plan of working. The commissioner may at other times require any further statement he may deem

necessary to be made relating to such society. In addition to the annual report herein required, each society shall annually report to the commissioner a valuation of its certificates in force on December thirty-first, last preceding; excluding those issued within the year for which the report is filed, in cases where the contributions for the first year in whole or in part are used for current mortality and expenses:

Proviso, first report. What to show.

Provided, The first report of valuation shall be made as of December thirty-first, nineteen hundred fourteen. Such report of valuation shall show, as contingent liabilities, the present mid-year value of the promised benefits provided in the constitution and laws of such society under certificates then subject to valuation; and as contingent assets the present mid-year value of the future net contributions provided in the constitution and laws as the same are in practice actually collected. At the option of any society, in lieu of the above, the valuation may show the net value of the certificates subject to valuation hereinbefore provided, and said net value, when computed in case of monthly contributions, may be the mean of the terminal values for the end of the preceding and of the current insurance years. Such valuation shall be certified by a competent accountant or actuary, or, at the request and expense of the society, verified by the actuary of the department of insurance of the home state of the society, and shall be filed with the commissioner within ninety days after the submission of the last preceding annual report.

Legal minimum standard.

The legal minimum standard of valuation for all certificates, except for disability benefits, shall be the national fraternal congress table of mortality as adopted by the national fraternal congress, August twenty-third, eighteen hundred ninety-nine, or, at the option of the society, any higher table; or, at its option, it may use a table based upon the society's own experience of at least twenty years and covering not less than one hundred thousand lives with interest assumption not more than four per centum per annum. Each such valuation report shall set forth clearly and fully the mortality and interest basis and the method of valuation.

Disability benefits.

Any society providing for disability benefits shall keep the net contributions for such benefits in a fund separate and apart from all other benefit and expense funds and the valuation of all other business of the society:

Proviso.

Provided, That where a combined contribution table is used by a society for both death and permanent total disability benefits, the valuation shall be according to tables of reliable experience, and in such case a separation of the funds shall not be required.

Test of solvency.

The valuation herein provided for shall not be considered or regarded as a test of the financial solvency of the society, but each society shall be held to be legally solvent so long as the funds in its possession are equal to or in excess of its matured liabilities.

Printed reports sent to members.

Beginning with the year nineteen hundred fourteen, a report of such valuation and an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to

each beneficiary member of the society not later than June first of each year; or, in lieu thereof, such report of valuation and showing of the society's condition as thereby disclosed may be published in the society's official paper and the issue containing the same mailed to each beneficiary member of the society. The laws of such society shall provide that if the stated periodical contributions of the members are insufficient to pay all matured death and disability claims in full, and to provide for the creation and maintenance of the funds required by its laws, additional, increased or extra rates of contribution shall be collected from the members to meet such deficiency; and such laws may provide that upon the written application or consent of the member, his certificate may be charged with its proportion of any deficiency disclosed by valuation, with interest not exceeding five per centum per annum.

Provision for deficiencies.

(216) SEC. 23-A. Provisions to Insure Future Security. If the valuation of the certificates, as hereinbefore provided, on December thirty-one, nineteen hundred seventeen, shall show that the present value of future net contributions, together with the admitted assets, is less than the present value of the promised benefits and accrued liabilities, such society shall thereafter maintain said financial condition at each succeeding triennial valuation in respect of the degree of deficiency as shown in the valuation as of December thirty-one, nineteen hundred seventeen. If at any succeeding triennial valuation such society does not show at least the same condition, the commissioner shall direct that it thereafter comply with the requirements herein specified. If the next succeeding triennial valuation after the receipt of such notice shall show that the society has failed to maintain the condition required herein, the commissioner may, in the absence of good cause shown for such failure, institute proceedings for the dissolution of such society, in accordance with the provisions of section twenty-four of this chapter, or in the case of a foreign society, its license may be cancelled in the manner provided in this chapter. Any such society, shown by any triennial valuation, subsequent to December thirty-one, nineteen hundred seventeen, not to have maintained the condition herein required, shall, within two years, thereafter, make such improvement as to show a percentage of deficiency not greater than as of December thirty-one, nineteen hundred seventeen, or thereafter as to all new members admitted, be subject, so far as stated rates of contributions are concerned, to the provisions of section twelve of this chapter, applicable in the organization of new societies: Provided, That the net mortuary or beneficiary contributions and funds of such new members shall be kept separate and apart from the other funds of the society. If such required improvement is not shown by the succeeding triennial valuation, then the said new members may be placed in a separate class and their certificates valued as an independent society in respect of contributions and funds: Provided,

Provisions to insure future security.

Triennial valuation.

Proviso, new members.

Proviso.

however, That whenever the supreme body of any domestic society shall voluntarily determine that it is necessary for the future solvency of the society to increase the rate of the assessments charged by the society, then before such increase shall become effective the question shall be submitted and approved by a majority vote of the members voting thereon. The submission of such vote shall be held at the lodge rooms of the different societies at a regular meeting thereof, after due notice to the members of such submission.

Increase of rates voluntarily.

"Accumulation basis."

(217) SEC. 23-B. In lieu of the requirements of sections twenty-three and twenty-three-A, any society accepting in its laws the provisions of this section may value its certificates on a basis herein designated "accumulation basis" by crediting each member with the net amount contributed for each year and with interest at approximately the net rate earned, and by charging him with his share of the losses for each year, herein designated "cost of insurance" and carrying the balance, if any, to his credit. The charge for the cost of the insurance may be according to the actual experience of the society applied to a table of mortality recognized by the law of this state, and shall take into consideration the amount at risk during each year, which shall be the amount payable at death less the credit to the member. Except as specifically provided in its articles or laws or contracts no charge shall be carried forward from the first valuation hereunder against any member for any past share of losses exceeding the contributions and credit. If, after the first valuation, any member's share of losses for any year exceeds his credit including the contribution for the year, the contribution shall be increased to cover his share of the losses. Any such excess share of losses chargeable to any member may be paid out of a fund or contributions especially created or required for such purpose. Any member may transfer to any plan adopted by the society with net rates on which tabular reserves are maintained, and on such transfer shall be entitled to make such application of his credit as provided in the laws of the society. Certificates issued, rerated or readjusted on a basis providing for adequate rates with adequate reserves to mature such certificates upon assumptions for mortality and interest recognized by the law of this state, shall be valued on such basis, herein designated the "tabular basis": Provided, That if on the first valuation under this section a deficiency in reserve shall be shown for any such certificate, the same shall be valued on the accumulation basis. Whenever in any society having members upon the tabular basis and upon the accumulation basis, the total of all costs of insurance provided for any year shall be insufficient to meet the actual and disability losses for the year, the deficiency shall be met for the year from the available funds after setting aside all credits in the reserve; or from increased contributions or by an increase in the number of assessments applied to the society as a whole or to classes of members as may be specified in its laws. Savings from a lower amount of death losses

Cost of insurance.

"Tabular basis."

Proviso, deficiency.

Deficiency, how met.

may be returned in like manner as may be specified in its laws. If the laws of the society so provide, the assets representing the reserves of any separate class of members may be carried separately for such class as if in an independent society, and the required reserve accumulation of such class so set apart shall not thereafter be mingled with the assets of other classes of the society. A table showing the credits to individual members for each age and year of entry and showing opposite each credit the tabular reserve required on the whole life or other plan of insurance specified in the contract, according to assumptions for mortality and interest recognized by the law of this state and adopted by the society, shall be filed by the society with each annual report and also be furnished to each member before July first of each year. In lieu of the aforesaid statement there may be furnished to each member within the same time a statement giving the credit for such member, and giving the tabular reserve and level rate required for a transfer carrying out the plan of insurance specified in the contract. No table or statement need be made or furnished where the reserves are maintained on the tabular basis. For this purpose, individual bookkeeping accounts for each member shall not be required, and all calculations may be made by actual methods. Nothing herein contained shall prevent the maintenance of such surplus over and above the credits on the accumulation basis and the reserves on the tabular basis as the society may provide by or pursuant to its laws; nor be construed as giving to the individual member any right or claim to any such reserve or credit other than in manner as expressed in the contract and its laws; nor as making any such reserve or credits a liability in determining the legal solvency of the society.

Methods.

Statement to member.

Accounting.

(218) SEC. 24. Examination of Domestic Societies. The commissioner of insurance, or any person be may appoint, shall have the power of visitation and examination into the affairs of any domestic society. He may employ assistants for the purpose of such examination, and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the society and may summon and qualify as witness under oath and examine its officers, agents and employes or other persons in relation to the affairs, transactions and condition of the society. The expense of such examination shall be paid by the society examined, upon statement furnished by the commissioner of insurance, and the examination shall be made at least once in three years. Whenever after examination the commissioner of insurance is satisfied that any domestic society has failed to comply with any provisions of this chapter, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently; or whenever any domestic society, after the existence of one year or more, shall have a membership of less than four hundred or shall determine to discontinue business, the commissioner of

Examination of domestic societies.

Assistants.

Expense, how paid.

When receiver may be appointed.

insurance may present the facts relating thereto to the attorney general, who shall, if he deem the circumstances warrant, commence an action in quo warranto in a court of competent jurisdiction, and such court shall thereupon notify the officers of such society of a hearing, and if it shall then appear that such society should be closed, said society shall be enjoined from carrying on any further business, and some person shall be appointed receiver of such society, and shall proceed at once to take possession of the books, papers, moneys and other assets of the society, and shall forthwith, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled thereto.

Notice given.

No such proceedings shall be commenced by the attorney general against any such society until after notice has been duly served on the chief executive officers of the society and a reasonable opportunity given to it, on a date to be named in said notice, to show cause why such proceedings should not be commenced.

Application for receiver.

(219) SEC. 25. Application for Receiver, Etc. No application for injunction against or proceedings for the dissolution of or the appointment of a receiver for any such domestic society or branch thereof shall be entertained by any court in this state, unless the same is made by the attorney general.

Examination of foreign societies.

(220) SEC. 26. Examination of Foreign Societies. The commissioner of insurance, or any person whom he may appoint, may examine any foreign society transacting or applying for admission to transact business in this state.

Assistants.

The said commissioner may employ assistants and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the society, and may summon and qualify as witness under oath and examine its officers, agents and employes and other persons in relation to the affairs, transactions and conditions of the society. He may, in his discretion, accept in lieu of such examination the examination of the insurance department of the state, territory, district, province or country where such society is organized.

Expenses, how paid.

The actual expenses of examiners making any such examination shall be paid by the society upon statement furnished by the commissioner of insurance.

Revocation of license.

If any such society or its officers refuse to submit to such examination or to comply with the provisions of the section relative thereto, the authority of such society to write new business in this state shall be suspended or license refused until satisfactory evidence is furnished the commissioner relating to the condition and affairs of the society, and during such suspension the society shall not write new business in this state.

No adverse publications.

(221) SEC. 27. No Adverse Publications. Pending, during or after an examination or investigation of any such society either domestic or foreign, the commissioner of insurance shall make public no financial statement, report or finding, nor shall he permit to become public any financial statement, report or finding affecting the status, standing or

rights of any such society, until a copy thereof shall have been served upon such society, at its home office, nor until such society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding, and to make such showing in connection therewith as it may desire.

Revocation of license.

(222) SEC. 28. Revocation of License. When the commissioner of insurance on investigation is satisfied that any foreign society transacting business under this chapter has exceeded its powers, or has failed to comply with any provisions of this chapter, or is conducting business fraudulently, or is not carrying out its contracts in good faith, he shall notify the society of his findings, and state in writing the grounds of his dissatisfaction, and after reasonable notice require said society, on a date named, to show cause why its license should not be revoked. If on the date named in said notice such objections have not been removed to the satisfaction of the said commissioner or the society does not present good and sufficient reasons why its authority to transact business in this state should not at that time be revoked, he may revoke the authority of the society to continue business in this state. All decisions and findings of the commissioner made under the provisions of this section may be reviewed by proper proceedings in any court of competent jurisdiction, as provided in section sixteen of this chapter.

Notice given.

Review.

Certain societies exempted.

(223) SEC. 29. Exemption of Certain Societies. Nothing contained in this chapter shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows or Knights of Pythias (exclusive of the insurance department of the Supreme Lodge Knights of Pythias), and the Junior Order of United American Mechanics (exclusive of the beneficiary degree of insurance branch of the National Council Junior Order of United American Mechanics), labor organizations or societies which limit their membership to any one occupation or religious denomination, nor to similar societies which do not issue insurance certificates, nor to an association of local lodges of a society now doing business in this state which provides death benefits not exceeding five hundred dollars to any one person, or disability benefits not exceeding three hundred dollars in any one year to any one person, or both, nor to any contracts of reinsurance business on such plan in this state nor to domestic societies which limit their membership to the employes of a particular city or town, designated firm, business house or corporation, nor to domestic lodges, orders or associations of a purely religious, charitable and benevolent description, which do not provide for a death benefit of more than one hundred fifty dollars, or for disability benefits of more than one hundred fifty dollars to any one person in any one year. The commissioner of insurance may require from any society such information as will enable him to determine whether such society is

How determined.

Certain fraternal benefit societies may be licensed within chapter.

exempt from the provisions of this chapter. Any fraternal benefit society, heretofore organized and incorporated and operating within the definition set forth in sections one, two and three of this chapter, providing for benefits in case of death or disability resulting solely from accidents, but which does not obligate itself to pay death or sick benefits, may be licensed under the provisions of this chapter, and shall have all the privileges and shall be subject to all the provisions and regulations of this chapter, except that the provisions of this chapter requiring medical examinations, valuations of benefit certificates, and that the certificate shall specify the amount of benefits, shall not apply to such society.

See section 129.
See Order of Hibernians v. Mahon, 221 / 216.

Tax exempt.

(224) SEC. 30. Taxation. Every fraternal benefit society organized or licensed under this chapter is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax, other than taxes on real estate and office equipment.

Penalty.

(225) SEC. 31. Penalties. Any person, officer, member or examining physician of any society authorized to do business under this chapter, who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money from or benefit in any society transacting business under this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the court; and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such society for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath required or authorized by this act, elsewhere than by sections fourteen-a or fourteen-b, shall be guilty of perjury and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury. Any person who shall solicit membership for, or in any manner assist in procuring membership in any fraternal benefit society not licensed to do business in this state, or who shall solicit membership for, or in any manner assist in procuring membership in any such society not authorized as herein provided to do business as herein defined in this state, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty nor more than two hundred dollars. Any society, or any officer, agent or employe thereof neglecting or refusing to comply with, or violating any of the

provisions of this chapter, the penalty for which neglect, refusal or violation is not specified in this section, or in section fourteen-c, shall be fined not exceeding two hundred dollars upon conviction thereof.

Am. 1923, Act 51.

PART FOUR.—FIRE, MARINE, AUTOMOBILE AND OTHER INSURANCE.

CHAPTER I.—INCORPORATION OF COMPANIES.

Sub-Division One.

(226) SECTION 1. Any number of persons, not less than seven, may associate together and form an incorporated company for any or all of the following purposes, to-wit: Number may incorporate.

First, To make insurance on dwelling houses, stores, and all kinds of buildings, and upon household furniture, goods, wares and merchandise, and any other property, against loss or damage by fire, lightning, wind and water; and also against bombardment and or explosion, whether fire ensues or not, but not to include steam boiler or flywheel explosion; Fire, wind and water, etc.

Second, To make insurance as aforesaid upon vessels, freights, goods, wares, merchandise and other property, against the risks of inland navigation and transportation; Inland marine.

Third, To make insurance upon automobiles, whether stationary or being operated under their own power, which shall include all or any of the hazards of fire, explosion, transportation, collision, loss by legal liability for damage to property resulting from the maintenance and use of automobiles, and loss by burglary or theft or both, but shall not include insurance against loss by reason of bodily injury to the person; Automobile.

Fourth, To make insurance upon vessels, freights, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank notes, bills of exchange and other evidences of debt, bottomry and respondentia interests and every insurance appertaining to or connected with ocean marine risks: Ocean marine.

Provided, however, That any corporation including in its charter a provision to assume any of the risks specified in this sub-section must have an unimpaired capital paid in in cash of not less than four hundred thousand dollars. Proviso, paid in capital.

INSURANCE CONTRACT: An agreement by which one party, for a consideration, promises to make a certain payment of money upon the destruction or injury of something in which the other has an interest.—Rensenhouse v. Seeley, 72 / 617. The underlying principle is complete idemnity.—Wardle v. Townsend, 75 / 391. A policy, or a delivery thereof, is not essential to the contract.—Mich. Pipe Co. v. Insurance Co., 92 / 491. Nor need the premiums be expressly agreed upon and paid, or credit expressly given, to make a valid contract.—Id. A contract of insurance is executed by the insured by payment of the premium, while it is executory by the company.—Clawson v. Fire Ins. Co., 121 / 591. Insurance is a personal contract and does not pass with the title to the premises. —Disbrow v. Jones, Har. 48. On buildings, it is personal and not real.—Clay

F. & M. Ins. Co. v. Salt & Lumber Co., 31 / 346. Divisibility of insurance contract.—Aetna Ins. Co. v. Resh, 44 / 55. Does not enure to benefit of strangers.—Perrott v. Shearer, 17 / 48. When this rule does not apply.—Monaghan v. Ag'l F. Ins. Co., 53 / 238. A written application, the policy and the note given in payment are parts of the same transaction and should be construed together.—Am. Ins. Co. v. Stoy, 41 / 385. The charter and by-laws of a stock company do not constitute a part of the contract of insurance, unless made so by special agreement.—Id. When there is no contract.—Lumber Co. v. Insurance Co., 96 / 20. An insurance contract, so far as the public is concerned, stands on no different basis from other contracts.—Armstrong v. Insurance Co., 96 / 137. One who accepts a policy of insurance, issued upon his written application, cannot ignore the written contract of insurance and sue on a preliminary parol agreement with the agent for a policy of different form: his remedy, in case of fraud or mistake, being the reformation of the contract by a court of equity.—Kleis v. Niagara F. Ins. Co., 117 / 469.

APPLICATION: Relation of application to insurance contract.—Peoria M. & F. Ins. Co. v. Perkins, 16 / 380; Throop v. N. A. F. Ins. Co., 19 / 423; Am. Ins. Co. v. Stoy, 41 / 385; Kleis v. Niagara F. Ins. Co., 117 / 469. Ambiguous statements and answers therein.—Aetna L. S., etc., Ins. Co. v. Olmstead, 21 / 246; N. A. F. Ins. Co. v. Throop, 22 / 146. As to the statements in, being warranties.—Peoria M. & F. Ins. Co. v. Perkins, 16 / 380; Throop v. N. A. F. Ins. Co., 19 / 423; Am. Ins. Co. v. Gilbert, 27 / 429; Van Buren v. St. Joseph Co., etc., Ins. Co., 28 / 398. Where a policy of fire insurance is issued upon the written application of the insured, such application becomes a part of the contract and the statements therein have the force of warranties, though it is not referred to in the policy.—Cronin v. Fire Association, 123 / 277. When the application is made a warranty, misstatements therein invalidate the insurance.—Aetna Ins. Co. v. Resh, 40 / 241. The statement of an applicant for insurance that he holds the property sought to be insured on contract, does not, in itself, amount to a misrepresentation, although the contract runs to himself and wife.—Miotke v. Insurance Co., 113 / 166. Although it may be conceded that by inference defendant's charter required a written application, yet in the absence of a provision strictly forbidding parol applications, plaintiff's claim of a parol application and its acceptance defendant's agent should be submitted to the jury.—Leonard v. Farmers' Mut. Fire Ins. Co., 192 / 230.

CONCEALMENT OR FAILURE TO DISCLOSE: Failure to state fact of pending litigation over the premises insured, held not to vitiate policy.—Hill v. Lafayette Ins. Co., 2 / 476. Untrue statements as to incumbrances and fears of incendiarism.—N. A. F. Ins. Co. v. Throop, 22 / 146. Failure to disclose the amount of interest when required, invalidates.—Ag'l Ins. Co. v. Montague, 38 / 548. A statement of absolute title, when the property is held by the applicant and wife, avoids.—Aetna Ins. Co. v. Resh, 40 / 241. The failure to disclose a mortgage given on the homestead by the wife alone does not avoid.—Watertown Ins. Co. v. G. & B. Sew. Mach. Co., 41 / 131. Effect of misstatements and concealments, etc., when the application is filled out by the agent of the insurer.—N. A. F. Ins. Co., v. Throop, 22 / 146; Am. Ins. Co. v. Gilbert, 27 / 429; Van Buren v. St. Joseph, etc., Co., 28 / 398; Mich. St. Ins. Co. v. Lewis, 30 / 41. Or where the conduct or statements of the agent have misled the insured.—Westchester F. Ins. Co. v. Earle, 33 / 143.

PROPERTY AND INTERESTS INSURED: Not necessary that the precise nature of the interest insured should appear in the application unless distinctly required. Insurance made for various parties having several, as well as joint interests, is good for all.—Castner v. Insurance Co., 46 / 18. An estate by entirety is an insurable interest in the whole premises.—Clawson v. Cit. Mut. F. Ins. Co., 121 / 591. Insurance in property in which the insured has no interest is void.—O'Hara v. Carpenter, 23 / 416. Insurance taken in good faith on goods belonging to the wife of the insured is void, even though the company has full knowledge of the facts of ownership.—Ag'l Ins. Co. v. Montague, 38 / 548. But parties having the custody of property belonging to others as factors, agents and consignees, may insure for the benefit of the owners.—Castner v. Farmers' Mut. Ins. Co., 46 / 18. The prohibitory liquor law of 1855 did not invalidate insurance upon intoxicating liquors.—Niagara F. Ins. Co. v. DeGraff, 12 / 124. When insurance by a partner upon firm property is considered to be for the firm and when upon his own interest only.—Peoria M. & F. Ins. Co. v. Hall, 12 / 202. See Insurance Co. v. Verdier, 33 / 138. Insuring a class of goods as a "stock of groceries," includes what is usually contained in it, whether extra hazardous or not.—Niagara F. Ins. Co. v. DeGraff, 12 / 137. One-story addition just back of the building insured deemed to be a part of it.—Boyer v. Fire Ins. Co., 124 / 455. A description construed.—N. A. F. Ins. Co. v. Throop, 22 / 146. Silver forks and tea and table spoons are not included in the term "plate," so as to be excluded from a policy by a clause excluding "money, bullion, jewels, plate and watches," unless particularly specified.—Hanover F. Ins. Co. v. Mannasson, 29 / 316. Milk cans are "packages" within the terms of a fire insurance policy covering merchandise on a creamery, consisting of butter and cheese, and all materials and supplies, "including packages."—Cronin v. Fire Association, 112 / 106. Sufficient statement of valuation.—Residence F. Ins. Co. v. Hannawold, 37 / 103. Over-valuation.—Am. Ins. Co. v. Gilbert, 27 / 429; Farmers' Mut. F. Ins. Co. v. Crampton, 43 / 421; McIntyre v. Mich. St. Ins. Co., 52 / 188; English v. Franklin F. Ins. Co., 55 / 273; Schmidt v. Mut. C. & V. F. Ins. Co., 55 / 432. Location of property.—Benton v. Farm. Mut. F. Ins. Co., 102 / 281. Insurable interest; sale of property insured.—Fuhrman v. Sun Insurance Office of London, 180 / 439. In marine insurance the word "survey" imports only a plan and description of the then existing mode and use of property.—Macatawa Transportation Co. v Firemen's Fund Ins. Co., 179 / 443.

TITLE AND OWNERSHIP: Effect of failure to disclose nature and extent of interest in the property insured.—Clay F. & M. Ins. Co. v. Salt & Lumber

Co., 31 / 346. See, also, Ag'l Ins. Co. v. Montagne, 38 / 548; Aetna Ins. Co. v. Resh, 40 / 241; compare Farmers' Mut. F. Ins. Co. v. Gargett, 42 / 289. A violation of the conditions as to ownership of the property invalidates the policy.—Miller v. Amazon Ins. Co., 46 / 463. In the absence of a distinct requirement, it is not necessary that the exact state of the title be explained.—Castner v. Farmers' Mut. F. Ins. Co., 46 / 15. The equitable title in the assured is sufficient.—Farmers' Ins. Co. v. Fogelman, 35 / 481. Title under land contract.—Hamilton v. Insurance Co., 98 / 535; Knop v. Insurance Co., 101 / 359. A husband has an insurable interest in real property held under a contract running to himself and wife jointly.—Miotke v. Insurance Co., 113 / 166. The insurer is not required to inquire into the condition of the title.—Wierengo v. Insurance Co., 98 / 621. In the provision, "wherever in this policy the word 'insured' occurs, it shall be held to include the legal representative of the insured" contained in the standard insurance policy, the term "legal representative" refers to those who succeed to the insured's legal rights by reason of his death or transfer of the policy.—Metzger v. Manchester F. Ass. Co., 102 / 334. The purchasers under land contract who paid up their contract, simply increased their interest, and although they had obtained a warranty deed of the premises after the issuance of the policy there was no such change of interest as to avoid the policy.—Houran v. Aetna Ins. Co., 183 / 418. Insurable interest, see, Marx v. Fire Ins. Co., 192 / 497. Title to insured property.—Wilms v. N. Hamp. Fire Ins. Co., 194 / 656. Where one verbally applies for fire insurance and he is not asked as to the state of the title, and does not act fraudulently, he is not required to disclose the exact condition of the title.—Crossman v. Am. Ins. Co., 198 / 304. One partner may insure his interest in partnership property in his own name.—Freeman v. Mitchell, 198 / 215.

POLICY: Except where prevented by the statute of frauds, or some other equivalent prohibition, a policy of insurance may be made or changed by parol; and the fact that a policy is written does not prevent its change by subsequent parol agreement, or its enlargement or continuance.—Westchester F. Ins. Co. v. Earle, 33 / 143; Roger Williams Ins. Co. v. Carrington, 43 / 252, 256. An actual manual delivery of the policy is not necessary to make the contract effectual.—Home Ins. Co. v. Curtis, 32 / 402. Nor is any policy necessary to the validity of the contract.—Mich. Pipe Co. v. Ins. Co., 92 / 491. See Lawrence v. Griswold, 30 / 410. The acceptance of the policy concludes the bargain with the insurer and excludes any parol promises for the future inconsistent with it.—Hartford F. Ins. Co. v. Davenport, 37 / 609. As to the countersigning of the policy and the waiver of the same.—Hibernia Ins. Co. v. O'Connor, 29 / 241; Westchester F. Ins. Co. v. Earle, 33 / 151. The construction of a policy is for the court.—Lapeer, etc., Ass'n v. Doyle, 30 / 159. The supreme court will not construe an insurance policy or other contract, upon mere stipulations of counsel as to its legal effect.—Am. Ins. Co. v. Reed, 40 / 622. All parts of an insurance policy are to be harmonized and given effect, if it can be consistently done.—Jackson v. Brit. Am. As. Co., 106 / 50. The person to whom a policy is issued and in whose name it stands is its legal owner.—Hart. F. Ins. Co. v. Davenport, 37 / 609. The assignee of the entire interest in a policy can sue thereon in his own name.—Watertown Ins. Co. v. G. & B. Sew. Mach. Co., 41 / 131. Separate interests under the same policy may be united by assignment to one person who may sue on it.—Mercantile Ins. Co. v. Holthaus, 43 / 423. There can be no splitting of causes of action on a policy; the party who can enforce the whole of it must sue.—Hart. F. Ins. Co. v. Davenport, 37 / 609. But where each of several persons insured by the same policy have distinct insurable interests, they can enforce their rights in equity, if they cannot at law.—Mercantile Ins. Co. v. Holthaus, 43 / 424. Limitation of action on policy by contract.—Peoria Ins. Co. v. Hall, 12 / 202. Presumption as to where the policy was executed.—Am. Ins. Co. v. Woodruff, 34 / 6; Am. Ins. Co. v. Cutler, 36 / 261. A policy written by an agent upon his own property is not binding until it is approved by the company.—Zimmerman v. Insurance Co., 110 / 399. Where plaintiff applies for insurance upon a frame building which was occupied at the time as a mission house in which religious services were held, and defendant's agent had knowledge that the policy covered a building used for such purpose, but in issuing the policy a rider was attached to the contract, stating that the policy covered the premises while occupied as a private dwelling, defendant was estopped to claim that the policy was invalid on the ground that it covered only the premises while occupied as a dwelling house.—Simpson v. Ohio Farmer's Ins. Co., 184 / 547. Reasonable requirements in contract.—Gordon v. Ins. Co., 197 / 226. What constitutes insurable interest.—Crossman v. Am. Ins. Co., 198 / 304.

NEW CONTRACT: Where fire insurance policies on lumber were assigned to the buyer with the consent of the insurer, the effect was new contracts of insurance issued to the buyer as owner of the lumber.—Wilms v. N. Hamp. Fire Ins. Co., 194 / 656.

CONDITIONS IN POLICIES: That a policy should become void while the premium note remained due and unpaid, if not paid at maturity, held valid.—Williams v. Alb. City Ins. Co., 19 / 451. See Conti. L. Ins. Co. v. Willets, 24 / 268. Fire insurance policy made void by violation of conditions.—Cronin v. Fire Ass'n of Philadelphia, 123 / 277; Vanderlogen v. Manchester Fire Assurance Co., 123 / 291. Construction of condition absolving insurers in case property becomes unoccupied or vacant.—Aurora F. & M. Ins. Co. v. Kranich, 36 / 289. For further construction of the vacancy clause in insurance policies, see Stupetski v. Insurance Co., 43 / 373; Hopkins Mfg. Co. v. Insurance Co., 48 / 148, 150; Becker v. Insurance Co., 48 / 610; Shackelton v. Sun Fire Office, 55 / 288; Bonenfant v. Insurance Co., 76 / 653; Fritz v. Insurance Co., 78 / 565; Richards v. Insurance Co., 83 / 508; Hill v. Insurance Co., 99 / 466. See, also, Residence F. Ins. Co. v. Hannawold, 37 / 103; Hart. F. Ins. Co. v. Davenport, 37 / 609. Temporary absence held not to create vacant property.—Raymond v. Farmers'

Mut. Fire Ins. Co., 114 / 386. Company's liability under vacancy permit represented by the agent to the insured as having been issued by the company and attached to the policy.—Morgan v. Illinois Ins. Co., 130 / 427. A condition in a fire insurance policy avoiding it, if the manufacturing establishment insured ceases operation for more than ten consecutive days is reasonable and proper.—Cronin v. Fire Association, 119 / 74. Policy avoided by breach of such condition.—Cronin v. Fire Ass'n. 127 / 612. A clause providing for forfeiture of the policy, if assigned without the company's consent, cannot prevent its assignment after the loss.—Insurance Co. v. Carrington, 43 / 252. The insurer is not required to inform the insured of all the conditions and terms of the policy or to read it to him.—Wierengo v. Am. F. Ins. Co., 98 / 621. There is no impediment to agreements for forfeitures in fire insurance policies, if parties choose to make them.—Allen v. Insurance Co., 106 / 204. Forfeiture clauses must be explicit.—Residence F. Ins. Co. v. Hannawold, 37 / 103. And must be strictly construed.—Westchester F. Ins. Co. v. Earle, 33 / 143; Olmstead v. Farmers' Mut. F. Ins. Co., 50 / 200; Lyon v. Trav. Ins. Co., 55 / 142. Blind and misleading conditions disapproved.—Westchester F. Ins. Co. v Earle, 33 / 152. Conditions relative to additional insurance must be strictly complied with.—Security Ins. Co. v. Fay, 22 / 467. See Cont. Ins. Co. v. Horton, 28 / 173. As to effect of additional insurance, see Sun Ins. Co. v. Earle, 20 / 406. Waiver of such conditions.—Westchester F. Ins. Co. v. Earle, 33 / 143. When company deemed to have notice of prior insurance on property.—Power v. Monitor Insurance Co., 121 / 364. When the company is estopped to claim that a policy was avoided by additional insurance.—Rauch v. Mut. Fire Ins. Co., 131 / 281. Breach of condition is not excused by good faith.—Penn. F. Ins. Co. v. Kittle, 39 / 51. Policy avoided by careless, though not intentionally false statement on oath regarding loss.—Knop v. Insurance Co., 107 / 323. Recovery allowed notwithstanding outstanding policies in other companies.—Liverpool, etc., Ins. Co. v. Verdier, 35 / 395; Emery v. Mutual, etc., Ins. Co., 51 / 469; Kitchen v. Hart. F. Ins. Co., 57 / 135. A policy conditioned that, "in case of any sale, transfer or change of title in the property insured, such insurance shall be void and cease," is avoided by a conveyance absolute in form, though given merely as security.—West. Mass. Ins. Co. v. Riker, 10 / 279. Policy avoided by change of interest in property insured.—Excelsior Foundry Co. v. Western Assurance Co., 135 / 467. Where a deed is executed and recorded, but not delivered, and there is no intention on the part of the grantor of passing the title, it does not pass, and does not constitute a breach of the condition of a policy against any "change of the title or ownership" of the property insured.—Hogadone v. Grange Mut. Fire Ins. Co., 133 / 339. Removal of insured property with consent of agent and liability of company.—Bennett v. Underwriters' Ass'n, 130 / 216. A policy of insurance on a steam fire-engine, etc., while located and contained in the fire-engine house "and not elsewhere," does not cover such property while being used at a fire several hundred feet from that building.—Village of L'Anse v. Fire Ass'n of Philadelphia, 119 / 427. Condition as to use of gasoline.—Smith v. Insurance Co., 107 / 270. Fire insurance policy avoided for the storing of gasoline.—Boyer v. Grand Rapids Fire Ins. Co., 124 / 455. Forfeited, if kerosene oil is drawn on the premises in any other manner than as specified in the standard form.—Vanderlogen v. Fire Assurance Co., 123 / 291. Under a policy stipulating that it should be void if the insured concealed or misrepresented any material fact, etc., such as the name of one of the co-partners, the concealment of the name of one of the members of the firm, amounted to fraud and avoided the policy.—Jacobs v. Queen Ins. Co., 183 / 512, 195 / 18.

WAIVER: When and how forfeiture clauses are deemed waived and insurers are estopped from insisting upon them.—Hart. F. Ins. Co. v. Davenport, 37 / 609. Security Ins. Co. v. Fay, 22 / 467; Williams v. Alb. City Ins. Co., 19 / 451; Penn. F. Ins. Co. v. Kittle, 39 / 51. The conditions of an insurance policy may be waived by the company not only by express agreement, but by conduct which amounts to an estoppel.—Miotke v. Insurance Co., 113 / 166. The question of waiver is one of intent and is a proper subject of inference from surrounding circumstances.—Hibernia Ins. Co. v. O'Connor, 29 / 241. Generally a question of fact for the jury.—Chapman v. Colby, 47 / 46; Dayton v. Monroe, 47 / 193; Penn. F. Ins. Co. v. Kittle, 39 / 51. Knowledge of and acquiescence in, violations of conditions in policies operate as a waiver of the same by an insurance company.—Match Co. v. Fire Ins. Co., 122 / 256. Waiver by the company of right to claim a forfeiture of the policy.—Granger v. Manchester Fire Assurance Co., 119 / 177. Waiver of conditions as to additional insurance.—Westchester F. Ins. Co. v. Earle, 33 / 143. The mere knowledge of the company that additional insurance has been obtained without its consent, cannot be deemed a waiver.—Allemania F. Ins. Co. v. Hurd, 37 / 11. It is waived if the adjusting agent, with full knowledge thereof, calls for proofs of loss and puts the insured to the trouble and expense of making the same, without informing him that the forfeiture will be urged.—Penn. F. Ins. Co. v. Kittle, 39 / 51. Waiver, of a condition in a fire insurance policy that it should be void if additional insurance was obtained without having the fact indorsed upon the policy, is a question for the jury where the evidence is conflicting.—Walter v. Fire Insurance Co., 120 / 35. Waiver of condition avoiding policy, in case of other insurance procured without written permission.—Kotwicki v. Thuringia Ins. Co., 134 / 82. A condition in a policy that it shall be void if the insured building "be or become vacant and so remain for 10 days" is not waived by the fact that, at the time an agent of the company consents to an assignment of the policy, he is informed that the building is then unoccupied.—Ranspach v. Teutonia Fire Ins. Co., 109 / 699. Waiver of condition as to vacancy of premises not established.—Sutherland v. F. & M. Ins. Co., 110 / 668. Waiver of provision in policy avoiding the same in case of foreclosure proceedings begun.—Cronin v. Fire Association, 119 / 74. Or provision against incumbering personal property by chattel mortgage.—Rediker v. Insurance Co., 107 / 224. Waiver of condition of acceptance of risk, as to clearing away logs and brush for 100 feet around the building insured.—Duby

v. Mut. Fire Ins. Co., 133 / 661. As to keeping gunpowder, how and when waived.—Peoria M. & F. Ins. Co. v. Hall, 12 / 202. When formal proofs of loss are deemed waived.—Match Co. v. Fire Ins. Co., 122 / 256; Security Insurance Co. v. Fay, 22 / 467; Hibernia Ins. Co. v. O'Connor, 29 / 241. Waiver of strict formal proof is waiver also of all preeedent requirements.—Id. A denial of liability by the adjuster for the reason that the poliey had been cancelled amounts to waiver of proofs of loss.—Morgan v. Illinois Ins. Co., 130 / 427. Waiver of requirement as to time of making proofs.—Aurora, etc., Ins. Co. v. Kranich, 36 / 289. A letter from an insurer to a claimant, asking that the matter be allowed to rest until the adjuster of the company can see the claimant or his attorney, is a waiver of a provision in the poliey limiting the time for furnishing proofs of loss and beginning action.—Turner v. Fidelity & Casualty Co., 112 / 425. Waiver of defeets in proofs of loss.—Mereantile Ins. Co. v. Holthaus, 43 / 423. A elaim of waiver of proofs of loss, based upon verbal statements of the company's agent, eannot be sustained.—Wadhams, Ryan & Reule v. Western Assuranee Co., 117 / 514. An insuranee company, by plaeing its refusal to pay a loss solely upon the ground that the policy had been eancelled, waives its right to assert other defenses.—Douville v. Farmers' Mut. F. Ins. Co., 113 / 158. A waiver is a voluntary relinquishment of a known right.—Dahrooge v. Rochester German Ins. Co., 177 / 442. Where an insurance company sends an adjuster to inquire into a loss, and he denies all liability of the company under the policy, such action will be held a waiver of proofs of loss by the company.—Popa v. Northern Ins. Co., 192 / 237. As to when peremptory refusal to pay by an authorized agent is waiver of right to suit.—Id. An adjuster when aeting in the line of his employment, has authority to waive presentation of proofs of loss by denying liability of the company; and his authority may be implied where the company informed plaintiff that the adjuster was looking after its interest.—Fisk v. Fire Ass'n of Phila., 192 / 243. Waiver of defense based on warranties and forfeitures.—Veenstra v. Fire Ins Co., 195 / 55. The denial of liability on part of insurance company by its adjusters constitutes a waiver of the filing of proofs of loss.—Fisk v. Liverpool, etc., Ins. Co., 198 / 270.

RENEWAL OF POLICY: Each renewal is a new contract and is subject to the local laws in foree at the time of renewal.—Brady v. Insurance Co., 11 /425. Though amounting to a new contract, it in no way changes the terms and eonditions of the original policy, exeept as they eontinue it in force, but the rights of the parties are governed by the provisions of the original policy.—Aurora F. & M. Ins. Co. v. Kranich, 36 / 289. Renewal of eaneeled policy by agent.—Hart. F. Ins. Co. v. Reynolds, 36 / 502.

SURRENDER OF POLICY: A surrender of an insurance policy, such as to discharge the insured from liability on a premium note, under an arrangement that, upon such surrender, the note should be delivered up, must be accompanied by a dealing immediately and directly with the company or its agents; a delivery to a stranger, with notiee to the company, is not enough.—Am. Ins. Co. v. Woodruff, 34 / 6. A member of a mutual benefit corporation withdrawing, is obligated to pay, not only all regular assessments outstanding against him, but also all other sums that might lawfully be made the subject of assessment at the time of surrender, and it is payable at onee on aseertainment.—Patrons' Mut. Fire Ins. Co. v. Butler, 193 / 648.

CANCELLATION OF POLICY: An insuranee company eannot eaneel a policy, which has been delivered and the premium paid, without notifying the assured and returning or offering to return the unearned premium.—Home Ins. Co. v. Curtis, 32 / 402; Krause v. Assurance Co., 99 / 464. Where the same person is at once agent for the insurance company and for the policy holder, the latter is bound by notice to the agent of the cancellation of the policy and by the return or credit of the premium to the agent.—Hart. Fire Ins. Co. v. Reynolds, 36 / 502. Where a policy is given up for eancellation and a smaller one taken, under fraud and misrepresentation by the agent, it will be re-established if action is seasonably taken.—Tabor v. Mich. Mut. L. Ins. Co., 44 / 324. Unauthorized eaneellation of life insurance policy.—Shields v. Equitable Life Assurance Society, 121 / 690. Authority of agent to eancel.—Kooistra v. Rockford Ins. Co., 122 / 626.

REVIVOR OF POLICY: A policy forfeited by breach of condition, cannot be revived by any act of waiver or estoppel, unless done upon full knowledge of the facts.—Security Ins. Co. v. Fay, 22 / 467. It eannot be revived by anything short of a new contract, on a valid eonsideration, or such conduct, as by misleading the insured to his preiudiee, would operate as an estoppel.—N. Y. Cent. Ins. Co. v. Watson, 23 / 486. Revivor of life insuranee poliey by bill in equity.—Heinlein v. Imperial L. Ins. Co., 101 / 250.

WAGER POLICY: The chief reason for looking to ownership is to prevent wager policies.—Castner v. F. Mut. F. Ins. Co., 46 / 18. A life insuranee policy for the benefit of one who is neither an heir nor a relation of the insured and whose interest is not promoted by the latter's continuing alive, is in the nature of a wager poliey and is void as against public poliey.—Mut. Ben. Ass'n v. Hoyt, 46 / 473. A wager policy is a policy upon a risk in which the insured has no interest and is void.—O'Hara v. Carpenter, 23 / 416-7. Insurance upon a life in which the beneficiary has not an insurable interest is a wager and is void.—Smith v. Pineh, 80 / 332. See Heinlein v. Insurance Co., 101 / 250.

PREMIUMS: Where an agent advances the money for the premium to the company and takes the note of the insured, the company cannot dispute its liability on the ground that the premium has not been actually paid.—Home Ins. Co. v. Curtis, 32 / 402; Ag'l Ins. Co. v. Montague, 38 / 548. If a company takes a note when a premium falls due and issues renewal receipts therefor, the policy eontinues in force and the eompany eannot afterward insist upon the forfeiture as for non-payment.—Mieh. Mut. Life Ins. Co. v. Bowes, 42 / 19; Tabor v. Mich. Mut. L. Ins. Co., 44 / 324. Risk is essential to the right to recover premiums.—Am. Ins. Co. v. Stoy, 41 / 385.

PREMIUM NOTES: No recovery ean be had on an installment premium note

payable in advance, where it is provided in the policy that in case of failure to pay an installment when due, the policy shall be void until such payment is made.—Yost v. Am. Ins. Co., 39 / 531.

UNEARNED PREMIUM: Must be returned if policy is canceled.—Home Ins. Co. v. Curtis, 32 / 402; Am. Ins. Co. v. Stoy, 41 / 385. But in case of loss under an absolute insurance for a term of years, the company need not return anything as unearned premium.—Am. Ins. Co. v. Stoy, 41 / 385.

INSURANCE AGENT: How far his statements, representations and advice to the applicant bind the company.—Aetna, etc., Co. v. Olmstead, 21 / 246; Westchester F. Ins. Co. v. Earle, 33 / 143. How the company is affected by its agent's knowledge.—Peoria M. & F. Ins. Co. v. Hall, 12 / 202; Niagara F. Ins. Co. v. DeGraff, 12 / 124; Aetna, etc., Co. v. Olmstead, 21 / 246; N. A. F. Ins. Co. v. Throop, 22 / 146; Security Ins. Co. v. Fay, 22 / 467; VanBuren v. St. Joseph, etc., Co., 28 / 398; Sun Ins. Co. v. Earle, 22 / 406; Mich. St. Ins. Co. v. Lewis, 30 / 41; Westchester Ins. Co. v. Earle, 33 / 143. Notice to a clerk in the office of an insurance agent as to matters affecting a risk, is notice to the agent.—Pollock v. German Fire Ins. Co., 127 / 460. Effect of the knowledge of the secretary of a mutual association.—Daily v. Preferred Mas. Mut. A. Ass'n, 102 / 289. Effect of a medical examiner's writing out answers upon his own knowledge rather than from the applicant's answers.—Pudritzsky v. Knights of Honor, 76 / 428. How far agent represents the insurers.—Aetna, etc., Co. v. Olmstead, 21 / 246. See Westchester Ins. Co. v. Earle, 33 / 143; McGraw v. Germania F. Ins. Co., 54 / 145; Miller v. Insurance Co., 101 / 49. So far as he acts as an insurance broker he is agent for the insured and not for the insurer.—Hartford F. Ins. Co. v. Reynolds, 36 / 502. The local agent of an accident insurance company, to whom a policy is sent to be delivered to the applicant, is not the agent of the insured in receiving the policy, so as to effect a valid contract of insurance inconsistent with the terms of the application.—Robinson v. U. S. Benevolent Society, 132 / 695. A person aiding in transacting the business of a foreign insurance company deemed to be its agent.—Pollock v. German Fire Ins. Co., 127 / 460; Bliss v. Potomac Fire Ins. Co., 134 / 212. Powers of general agents of insurance companies.—Gore v. Canada Life Ass. Co., 119 / 136. Authority of fire insurance agent to cancel policy.—Kooistra v. Rockford Ins. Co., 122 / 626. When the solicitor of life insurance incurs no personal liability for the return of premium collected.—Blean v. Wright, 110 / 183. An agent's unauthorized acts are not binding upon the company.—Security Ins. Co. v. Fay, 22 / 467. See Reynolds v. Cont. Life Ins. Co., 36 / 131; Hartford F. Ins. Co. v. Reynolds, 36 / 502; Mallory v. Met. L. Ins. Co., 97 / 416. The fact of a person's being a company's local insurance agent implies nothing more than authority to insure in the mode allowed by the company's charter, and to take such risks as the policies of the company in common use by its agents warrant.—Reynolds v. Cont. Ins. Co., 36 / 143-4. A sub-agent, employed by the agent of an insurance company to solicit applications for insurance, collect premiums and deliver policies, has no general authority, by virtue of such employment, to give credit or receive anything but cash in payment.—Cont. L. S. Ins. Co. v. Willets, 24 / 268. One who has power to solicit insurance, receive applications, fix premiums and accept risks, issue, countersign and renew policies of insurance, is such a general agent that his knowledge of facts concerning membership of an insured firm will be imputed to his employer or principal.—Jacobs v. Queen Ins. Co., 183 / 512. When knowledge of agent of false statements in application regarded as knowledge of the company.—Blake v. Ins. Co., 194 / 589.

INSURANCE FOR MORTGAGEE: A person who purchases property with full knowledge that it is mortgaged and is to be kept insured for the benefit of the mortgagee, as additional security, is bound by such arrangement.—Miller v. Aldrich, 31 / 408. Insurance by the mortgagee when the mortgagor fails to insure as agreed.—Hopkins Mfg. Co. v. Insurance Co., 48 / 148. When the policy vests the right of action in the owner, whatever invalidates the policy as to him must of necessity defeat any right of the mortgagee derived through him.—Van Buren v. St. Joseph, etc., Ins. Co., 28 / 398. Policy purporting to be taken for the use and benefit of another.—See Clay F. & M. Ins. Co. v. Huron Salt & Lumber Co., 31 / 346. He who can enforce the whole of it must sue on the policy; there can be no splitting of causes of action, so as to permit a mortgagee to maintain an action for the loss upon part of the property, made payable to him.—Hart. F. Ins. Co. v. Davenport, 37 / 609. An administrator can sue on an insurance policy for the use and benefit of a mortgagee to whom the loss is made payable.—Westchester Fire Ins. Co. v. Dodge, 44 / 420. A debtor may insure his property for the benefit of his creditor if the insured consents to the arrangement.—Guiterman v. German-American Ins. Co., 111 / 626.

LOSS: A policy of insurance against loss by fire includes every loss which necessarily follows from the fire, to the amount of the actual injury, whenever that injury arises directly and immediately from the peril or necessarily from incidental and surrounding circumstances, the operation and influence of which could not be avoided.—Brady v. N. W. Ins. Co., 11 / 445. Insurance covering "damage by fire" extends to loss occasioned by water used in case of fire to prevent the destruction of the insured property.—John Davis & Co. v. Insurance Co., 115 / 382. Liability of fire insurance company for explosion and falling walls.—John Davis & Co. v. Insurance Co., 115 / 382. Insurance in case of falling building.—N. & M. Friedman Co. v. Atlas Assurance Co., 133 / 212. Notice of loss may be given to the local agent of the company by any one of the parties interested in the insurance and it will enure to the benefit of the others. The notice is distinct from the proof of loss and need not be in writing.—Watertown Ins. Co. v. G. & B. Sew. Mach. Co., 41 / 136. False statements in proofs of loss.—Hanover F. Ins. Co., v. Mannasson, 20 / 316. Immaterial misstatement in the proof of loss.—Wicking v. City Mut. F. Ins. Co., 118 / 640. The burden of showing that the loss was occasioned by the peril insured against is upon the plaintiff.—John Davis & Co. v. Insurance Co., 115 / 382. If proofs are made within a

reasonable time, the claim cannot be defeated by the company's withholding its decision until the time for bringing suit has elapsed.—Westchester F. Ins. Co. v. Dodge, 44 / 420. A claim for loss does not mature until the company has decided whether it will rebuild, where the right to do so is reserved.—Westchester Ins. Co. v. Dodge, 44 / 420. Averaging loss and contribution, in case of other insurance on the property.—Liverpool, etc., Ins. Co. v. Verdier, 33 / 138; 35 / 395; Penn. Ins. Co. v. Kittle, 39 / 51. Failure to furnish proofs of loss within 60 days will not prevent recovery in a suit commenced within 12 months and after proofs are furnished.—Rynalski v. Ins. Co. of Pennsylvania, 96 / 395, citing Steele v. Insurance Co., 93 / 81. After proofs, the company should, within a reasonable time, manifest its disagreement with the amount claimed.—Brock v. Insurance Co., 102 / 538. Where a fire insurance policy provides that no suit or action thereon for the recovery of any claim shall be sustainable, unless commenced within 12 months next after the fire, a suit cannot be maintained, unless it is in fact commenced within the year specified in the policy.—Peck v. Germ. F. Ins. Co., 102 / 53; Lentz v. Teutonia F. Ins. Co., 96 / 445; Law v. N. E. Mut. Ac. Ass'n, 94 / 266; Steele v. Germ. Ins. Co., 93 / 81. Premature action on insurance claim.—Putze v. Mut. Fire Ins. Co., 132 / 670. Equity jurisdiction in controversies over the ownership of insurance money.—Convis v. Mutual Fire Ins. Co., 127 / 616. Proofs of loss.—Fuhrman v. Sun Insurance Office of London, 180 / 439. Wilful misstatements as to loss.—Silverstone v. Assurance Corp., 187 / 333. The price at which the owner sold a hotel later destroyed by fire, is competent evidence, but not conclusive as to the cost of the building.—Fite v. North River Ins. Co., 199 / 467.

PLEADINGS: Setting forth application in declaration, when necessary.—Throop v. N. A. F. Ins. Co., 19 / 423. Variance in allegation of place where contract was made.—Clay, etc., Ins. Co. v. Huron, etc., Mfg. Co., 31 / 346. Notice of defense.—Home Ins. Co. v. Curtis, 32 / 402; Residence F. Ins. Co. v. Hannawold, 37 / 103; Farmers' Mut. F. Ins. Co. v. Crampton, 43 / 421. See Farmers' Mut. F. Ins. Co. v. Gargett, 42 / 289. An insurance company cannot avail itself, in an action on a policy, of a stipulation therein, which was intended to avoid its promise by way of defeasance or excuse, unless it has given notice of such defense.—Cronin v. Fire Association, 112 / 106.

ARBITRATION: Arbitration of amount of loss by agreement of parties.—Kersey v. Phoenix Ins. Co., 135 / 10. The authority of arbitrators is limited to an adjustment of the loss and questions of fraud do not come before them.—Kearney v. Mut. Fire Ins. Co., 126 / 246. Practice in suit in equity to set aside arbitrators' award under fire insurance policy.—Michels v. Underwriters' Ass'n, 129 / 417. Compromise settlements are favored by the courts and will not be set aside except on satisfactory evidence of mistake, fraud or unconscionable advantage.—Loud v. Federal Ins. Co., 195 / 60.

MARINE INSURANCE: Condition of vessel an essential element in marine insurance.—Gauntlett v. Sea Ins. Co., 127 / 504. A contract of marine insurance cannot be effected, or negotiated, after the loss of the property to be insured, if known to the owner.—Id.

AUTOMOBILE INSURANCE: Since the policy of the state is to separate property insurance from other lines, a foreign corporation having exceeded the authority conferred by Act 15 of 1911, amending Act 136 of 1869, (superseded), is not entitled to insure automobiles in connection with personal liability insurance and indemnity against accident and including an agreement to defend suits, pay costs, etc.—Am. Automobile Ins. Co. v. Commissioner of Insurance, 174 / 295. The rule of comity does not avail.—Id. Provisions in an automobile accident policy, stipulating for the defense of the owner of the car on account of accidents did not relate to a prosecution for manslaughter arising out of the negligent operation of the car.—Patterson v. Standard Accident Ins. Co., 178 / 288.

(227) SEC. 2. The capital stock of any stock company organized under this chapter shall not be less than one hundred thousand dollars, in shares of not less than twenty-five dollars or more than one hundred dollars each, which capital stock may be increased by a vote of two-thirds of the stockholders to not more than two million dollars; nor shall any company thereafter organized on the plan of mutual insurance, commence business in this state until agreements have been entered into for insurance with at least two hundred applicants, the premiums upon which shall amount to not less than twenty-five thousand dollars, of which at least five thousand dollars shall have been paid in actual cash, and for the remainder of which notes of solvent parties, founded upon actual and bona fide application for insurance, shall have been received. No one of the notes received, as aforesaid, shall amount to more than five hundred dollars; and no two thereof shall be given for the same risk, nor made by the same person or firm, except where the whole amount

Capital stock, amount, etc.

How increased.

of such notes does not exceed the sum of five hundred dollars; nor shall any note be regarded or represented as capital stock, unless a policy to be issued upon the same within thirty days after the organization of the company taking the same, upon a risk which shall be for no shorter period than twelve months. Each of said notes shall be payable, in whole or in part, at any time when the directors shall deem the same requisite for the payment of losses by fire, and such incidental expenses as may be necessary for transacting the business of said company; and no note shall be accepted as part of such capital stock, unless the same shall be accompanied by a certificate of the clerk of the circuit court of the county in which the person executing such note shall reside, that the person making the same is, in his opinion, pecuniarily good and responsible for the same in property not exempt from execution by the laws of this state; and no such note shall be surrendered while the policy for which it was given continues in force. No fire insurance company organized under this chapter or transacting business in this state, shall expose itself to any loss on any one fire or inland navigation risk or hazard, to an amount exceeding ten per cent of its paid-up capital and surplus, nor shall any fire insurance company organized under the laws, or by authority of any foreign government, expose itself to any loss on any one fire or inland navigation risk, or hazard, to an amount exceeding ten per cent of its deposited capital and surplus in the United States: Provided, however, That no portion of any such risk or hazard which shall have been re-insured in a corporation licensed to do fire insurance business in this state, shall be included in determining the limitation of risk prescribed in this section.

Notes, when payable.

Risk, etc., limit of.

Proviso.

Am. 1921, Act 102.
See section 409 imposing fee of one mill on each dollar of increase of capital stock.

(228) SEC. 3. It shall not be lawful for the directors, trustees, or managers of any fire insurance company to make any dividend, except from the surplus profits arising from their business; and in estimating such profits, there shall be reserved therefrom a sum equal to the whole amount of premiums on unexpired risks and policies, which are hereby declared to be unearned premiums; and also there shall be reserved all sums due the corporation on bonds and mortgages, bonds, stocks, and book accounts, of which no part of the principal or the interest thereon has been paid during the last year, and for which foreclosures or suit has not been commenced for collection, or which, after judgment obtained thereon, shall have remained more than two years unsatisfied, and on which interest shall not have been paid, and also there shall be reserved all interest due or accrued and remaining unpaid: Provided always, That any company may declare dividends not exceeding ten per cent, on its capital stock, in any one year, that shall have accumulated and be in possession of a fund, in addition to the amount of its capital stock,

Dividends payable on surplus profits.

Proviso, dividends on capital stock.

and of such dividend, and all outstanding liabilities, equal to one-half of the amount of all premiums on risks not terminated at the time of making such dividend. Any dividend made contrary to these provisions, shall subject the company making the same to a forfeiture of its corporate rights, and each stockholder receiving it to a liability to the creditors of such company to the extent of the dividend received, in addition to the other penalties and punishments in such case made and provided. Forfeiture of rights.

(229) SEC. 4. All notes deposited with any mutual insurance company at the time of its organization, as provided in section two of this chapter, shall remain as security for all losses and claims until the accumulation of the profits, invested as required by this act, shall equal the amount of cash capital required to be possessed by stock companies organized under this chapter but any note which may have been deposited with any mutual insurance company subsequent to its organization, in addition to the cash premium on any insurance effected with such company may at the expiration of the time of such insurance, be relinquished and given up to the maker thereof, or his representative, upon his paying his proportion of all losses and expenses which may have accrued thereon during such term; and all such premium notes shall be a lien upon the premises insured to the amount of principal and interest due thereon. The directors or trustees of any such company shall have the right to determine the amount of the note to be given in addition to the cash premium by any person insured in such company; but in no case shall the note be more than five times the whole amount of the cash premium. And every person effecting insurance in any mutual company, and also their heirs, executors, administrators and assigns, continuing to be so insured, shall thereby become members of said corporation during the period of insurance, and shall be bound to pay for losses and such necessary expenses as aforesaid, accruing in and to said company, in proportion to the amount of his deposit note or notes. The directors shall, after receiving notice of any loss or damage by fire sustained by any member, and ascertaining the same, or after the rendition of any judgment against said company for loss or damage, settle and determine the sums to be paid by the several members thereof, as their respective portion of such loss, and publish the same in such manner as they shall see fit, or as the by-laws shall have prescribed; and the sum to be paid by each member shall always be in proportion to the original amount of his deposit note or notes, and shall be paid to the officers of the company within thirty days next after the publication of said notice. And if any member shall, for the space of thirty days after the publication of said notice, and after personal demand for payment shall have been made, neglect or refuse to pay the sum assessed upon him as his proportion of any loss, as aforesaid, in such case the directors may sue for and recover the whole amount of his deposit note or notes, with

Notes as security.

To be lien.

Insured to be member of corporation.

Liability.

Adjustment of loss.

Proportion to pay.

Refusal or neglect.

Recovery.

costs of suit, but execution shall only issue for assessments and costs as they accrue and every such execution shall be accompanied by a list of the losses for which the assessment is made. If the whole amount of deposit notes shall be insufficient to pay the loss occasioned by any fire or fires, in such case the sufferers insured by the said company shall receive, towards making good their respective losses, a proportional share of the whole amount of said notes, according to the sums by them respectively insured; but no member shall ever be required to pay for any loss occasioned by fire, more than the whole amount of his deposit note.

Notes insufficient to cover.

Liability of trustees, etc.

(230) SEC. 5. The trustees and corporators of any company organized under this chapter, shall be jointly and severally liable for all debts or responsibilities of such company, until the whole amount of the capital of such company shall have been paid in and a certificate thereof recorded, as hereinbefore provided. Notes taken in advance of premiums under this chapter are not to be considered debts of the company in determining whether a company is insolvent, but are to be regarded as assets of the company.

May increase, etc., capital stock.

(231) SEC. 6. Any stock company incorporated under the laws of this state and transacting business under the provisions of this chapter may increase or decrease its capital stock in the manner herein provided. When any such company proposes to increase or decrease its capital stock, it shall first present its petition to the commissioner of insurance, setting forth the reasons for such increase or decrease. Said commissioner, if satisfied that the proposed increase or decrease is for the best interests of the company and its policy holders, and that no reasonable objection exists thereto, may authorize and approve the proposed plan of increase or decrease, or may direct such modification thereof as may seem proper. After the approval of the petition as aforesaid, such increase or decrease must be approved, and the articles of association amended in this respect, by the affirmative vote of not less than two thirds of the capital stock of the company, voting in person or by proxy, at a regular or special meeting of the stockholders, but notice of such meeting, reciting the purposes thereof, shall be served on each of the stockholders, either personally or by directing same through the postoffice to the last known postoffice address of such stockholder at least three weeks previous to such meeting. Such increase or decrease shall not become effective until finally approved by the commissioner of insurance, and until compliance is made with the requirements of section seven, chapter one, part two, of this act. Whenever any company shall increase or decrease its capital stock as herein provided, the par value of its shares shall be fixed at not less than twenty-five dollars nor more than one hundred dollars each, and the directors of the company shall have authority to make provision for calling in the old and issuing new certificates of stock.

Petition.

Approval.

When effective.

Par value of shares.

Am. 1919, Act 360; 1921, Act 102.
Section seven above referred to is compiler's section 52.

(232) SEC. 7. Any company organized under this chapter shall have power to effect reinsurance of any risks taken by them respectively. Reinsurance.

REINSURANCE DEFINED: Reinsurance means either the substitution of a new insurer with the consent of the policy holder, releasing the original insurer, or the indemnification by one company of another on account of risks which the indemnified concern continues to carry.—People v. American Central Ins. Co., 179 / 371.

(233) SEC. 8. No company formed under this chapter shall, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise or other commodities whatever, excepting such articles as may have been insured by such company, and are claimed to be damaged by fire or water. Unlawful to buy or sell goods, etc.

Sub-Division Two.

(234) SEC. 9. It is hereby made the duty of the commissioner of insurance to calculate the reinsurance reserve for every fire and fire marine insurance company organized under the laws of this state or doing business therein, by taking fifty per cent of the premiums received on all unexpired risks that have less than one year to run, and a pro rata of all premiums received on risks that have more than one year to run: Provided, That when the reinsurance reserve, calculated as above, is less than forty per cent of all premiums received during the year, the reinsurance reserve in such case shall be the whole of the premiums received on all unexpired risks: Provided further, That in the case of perpetual risks or policies, the whole amount of the deposit or premium paid by the assured shall be deducted: And provided further, That no installment, part-paid, or other notes shall be accepted or allowed as assets in calculating the reinsurance reserve of any fire insurance company organized or doing business upon the stock plan; and in marine and inland trip risk insurance he shall charge all the premiums received on unexpired risks; on all unexpired time risks having not more than one year to run he shall charge not less than fifty per cent of the premiums received, and pro rata of all premiums received on time risks having more than one year to run. Reinsurance reserve. Proviso. Further proviso. Further proviso.

Sub-Division Three.

(235) SEC. 10. No person, association or corporation transacting fire or marine insurance business in this state shall, directly or indirectly, contract for or effect reinsurance of any risks, in any company, corporation or association not licensed by the commissioner of insurance of this state to transact fire or marine insurance business therein. A sworn statement of all reinsurance made or effected by any fire or marine insurance company doing business in this state shall be made annually, containing the amount of such reinsurance, and the names of the companies and respective amounts reinsured in each company in which reinsurance has been Reinsurance in unauthorized company. Sworn statement annually.

Where filed, etc.

contracted for or effected, to the commissioner of insurance of this state; which statement shall be filed by the insurance commissioner in his office, and shall be open to the inspection of every officer or agent of any insurance company authorized to do business in this state: Provided also, That nothing in this section shall be construed as preventing any insurance company through its resident agent upon property within the state, from reinsuring said risk, or any portion thereof in any authorized company without having said policy of reinsurance signed by a local agent in the state.

Proviso, agents.

To use corporate name. Conducting business on policies.

(236) SEC. 11. Every fire insurance company shall conduct its business in this state, in the name under which it is incorporated, and the policies issued by it shall be headed or entitled only by such name. There shall not appear on the face of the policy, or on its filing back, anything that would indicate that it is the obligation of any other than the company responsible for the payment of losses under the policy, though it will be permissible to stamp or print on the bottom of the filing back the name or names of the department or general agency issuing the same. No insurance company or department or general agency of an insurance company, doing business in this state, or its officers or agents, shall issue any false or misleading advertisement through newspapers or other periodicals, or any false or misleading representations by signs, cards, letterheads, or other stationery, tending to conceal or misrepresent the true identity of the issuer or insurance company which is carrying the liability under any policy issued in this state. Nor shall any insurance company or department or general agency of an insurance company, doing business in this state, issue any advertisement or representation of any character, giving the appearance of a separate or independent insuring organization on the part of any department or general agency, and the type or lettering used in any advertisement or representation shall set forth the name of the company or organization assuming the risk more conspicuously than that of any department or general agency: Provided, Nothing herein contained shall be construed as limiting the right of any representative of a fire insurance company to advertise his own individual business.

False advertisements, etc.

Departments and general agents of companies.

Proviso.

Penalty.

(237) SEC. 12. Any violation of this sub-division shall be punished by a fine of not exceeding five hundred dollars, as a misdemeanor.

Sub-Division Four.

Fire insurance company, annual examination of.

(238) SEC. 13. It shall be the duty of the commissioner of insurance as often as once each year, to appoint one or more competent persons, not officers of any fire insurance company doing business in this state, to examine into the affairs of any fire insurance company incorporated under any law of this state, and whenever he shall deem it expedient so to do, to examine into the affairs of any such company

incorporated or organized under the laws of any other state of the United States doing business by its agents in this state. Whenever it shall appear to the said commissioner of insurance, from such examination, that the assets of any company incorporated under any law of this state are insufficient to justify the continuance in business of any such company, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition, and in case any such company shall fail to pay in and make good the full amount of such deficiency within thirty days after such requisition and direction as aforesaid, it shall be the duty of the commissioner of insurance to give notice of such failure in some newspaper published in the county where the office of such company is located by its charter; such notice shall contain a brief statement of the fact of such failure to comply with this section, and shall be published in such paper once in each week for three successive weeks. It shall not be lawful after the first publication of such notice for such company to issue any policy of insurance, or to make any contract for the same, or to transact any business under its charter, except to close up its business; and all contracts of insurance and policies issued after such first publication of such notice shall be void and of no binding force, and the person or persons making such contracts or issuing such policy shall be liable, in an action of trover, to the person assured, in double the sum named as premium in such contract or policy.

When assets deemed insufficient.

Assessment of stockholders.

Notice to pay assessments.

Business to cease.

When contracts void.

(239) SEC. 14. Any company receiving the aforesaid requisition from the said commissioner of insurance, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the charter of said company; and in case any stockholder of such company shall refuse or neglect to pay the amount so called for, after notice personally given or by advertisement, in such time and manner as the said commissioner of insurance shall approve, it shall be lawful for the said company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as the said stockholder may be entitled to in the proportion that the ascertained value of the funds of the said company may be found to bear to the original capital of the said company; the value of such shares, for which new certificates shall be issued, to be ascertained under the direction of the said commissioner of insurance, and the company paying for the fractional parts of shares; and it shall be lawful for the directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company.

Call on stockholders.

Return of stock certificate.

Issuing new stock certificates.

(240) SEC. 15. And it is hereby declared that in the event of any additional losses accruing upon new risks, taken

Liability for loss.

after the expiration of the period limited by the said commissioner of insurance in the aforesaid requisition for the filling up of the deficiency in the capital and assets of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof.

When assets insufficient, mutual companies.

And if, upon such examination, it shall appear to the said commissioner of insurance that the assets of any company chartered on the plan of mutual insurance under any law of this state are insufficient to justify the continuance of such company in business, it shall be his duty to proceed in relation to such company in the same manner as is herein required in regard to joint stock companies; and the trustees or directors of such company are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by the said commissioner of insurance for filling up the deficiency in the capital and assets of such company, and before such deficiency shall have been made up.

Liability of trustees, etc.

Transfer of stock, pending investigation.

Any transfer of the stock of any company, organized under this part, made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer. All the provisions of section thirteen of this chapter shall apply to any company chartered on the plan of mutual insurance under the laws of this state; and whenever it shall appear to the said commissioner of insurance that the affairs of any company not incorporated by the laws of this state are in an unsound condition, he shall revoke the certificates granted in behalf of such company, and shall cause a notification thereof to be published in some paper of general circulation in this state for four weeks; and the agent or agents of such company are, after such notice, required to discontinue the issuing of any new policy, and the renewal of any previously issued; and the agent or agents of such company not incorporated by the laws of this state who shall issue any new policy, or make any contract for the same after such publication, shall be liable in an action of trover to the persons assured in double the sum named as premium in such policy or contract.

Foreign companies.

Revocation of certificate.

Notice.

Mutual fire company on stock plan.

Cash assets required as capital.

(241) SEC. 16. It shall be lawful for any mutual fire insurance company organized under the laws of the state of Michigan or of any other state of the United States, and being possessed of at least one hundred thousand dollars of actual net cash assets, to transact the business of fire insurance in this state in like manner as stock companies of the state of Michigan or other states may do, upon receiving from the commissioner of insurance a certificate of authority. Such amount of one hundred thousand dollars shall be deemed to be actual capital of such company, and shall be treated as capital by the commissioner of insurance in determining the solvency of such company. In all other respects such mutual fire insurance companies shall be subject to all the

Provisions, etc., subject to.

penalties and provisions of law applicable to stock fire insurance companies of the state of Michigan and of other states transacting business in this state.

CHAPTER II.—PROVISIONS RELATING TO CONTRACTS OF FIRE INSURANCE, ET CETERA.

Sub-Division One.

Contracts.

(242) SECTION 1. All contracts of fire insurance upon property real or personal located in this state shall be held and deemed to be made and consummated within this state.

Unauthorized companies' contracts void.

(243) SEC. 2. All contracts of fire insurance upon property real or personal located in this state in companies not at the time of the making of such contracts duly authorized under the laws of this state to make such contracts are hereby declared to be void and unenforcible and no action at law or in equity shall be maintained on any such contract in any court.

It is the policy of this state to limit the business of insurance to such corporations, domestic and foreign, as shall be authorized by the commissioner of insurance to do business after compliance with certain regulations and conditions prescribed by law, and all fire insurance companies are expressly forbidden to transact any business of insurance within this state without the requisite authority.—Seamans v. The Temple Co., 105 / 400.

Unauthorized companies.

(244) SEC. 3. Any company not being duly authorized under the laws of this state to insure property located herein, which shall make or issue or cause to be made or issued any policy of fire insurance upon real or personal property located in this state, shall be liable to a penalty of not less than two hundred dollars nor more than one thousand dollars for each contract made or caused to be made by such company.

Penalty.

Solicitation, etc., for unauthorized companies.

(245) SEC. 4. Any person who as solicitor, agent or in any other capacity takes or receives any application for fire insurance in any company not duly authorized under the laws of this state, upon any real or personal property located in this state, or performs any service for any such unauthorized company, either in making a survey or examination of property for such company, making out or forwarding any application for fire insurance to such unauthorized company, delivering any unauthorized policy, or collecting or receiving the premium or any part thereof on such policy, making any endorsement thereon, taking any part in the settlement or adjustment of any loss occurring under such unauthorized policy, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not to exceed two hundred dollars or imprisonment in the Michigan reformatory not to exceed one year, in the discretion of the court.

Penalty.

Company defined.

(246) SEC. 5. The word "company" as used in this chapter shall be held to mean and include a corporation, either mutual or stock, association, joint stock company, organization of Lloyds and underwriters, and any person or group

of persons either jointly or collectively writing or making fire insurance upon real or personal property located in this state.

Sub-Division Two.—Standard Fire Policy.

Standard fire insurance policy.

(247) SEC. 6. On and after January one, nineteen hundred eighteen, the following form of standard fire insurance policy shall be substituted for the "Michigan Standard Policy" prescribed by act two hundred seventy-seven, public acts of nineteen hundred five, and other acts amendatory thereof and supplemental thereto:

FORM.

Form.

No.....

(Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of the policy.)

Amount $..... Rate ..... Premium $.....

IN CONSIDERATION OF THE STIPULATIONS HEREIN NAMED AND OF ..... Dollars premium does insure .....

.....

and legal representatives, to the extent of the actual cash value (ascertained with proper deductions for depreciation) of the property at the time of loss or damage, but not exceeding the amount which it would cost to repair or replace the same with material of like kind and quality within a reasonable time after such loss or damage, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair and without compensation for loss resulting from interruption of business or manufacture, for the term of ..... from the ..... day of ..... 19... at noon to the ..... day of ..... 19... at noon against all DIRECT LOSS AND DAMAGE BY FIRE and by removal from premises endangered by fire, except as herein provided, to an amount not exceeding ..... dollars, to the following described property while located and contained as described herein, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from fire, but not elsewhere, to-wit:

(Space for description of property.)

This policy is made and accepted subject to the foregoing stipulations and conditions, and to the stipulations and conditions printed on the back hereof, which are hereby made a part of this policy, together with such other provisions, stipulations and conditions as may be endorsed hereon or added hereto as herein provided.

IN WITNESS WHEREOF, This company has executed and attested these presents.

(Space for date and for signatures and titles of officers and agents.)

Fraud, misrepresentation, etc. This entire policy shall be void if the insured has concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof; or in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss.

Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money, notes or securities; nor, unless specifically named hereon in writing bullion, manuscripts, mechanical drawings, dies or patterns.

Hazards not covered. This Company shall not be liable for loss or damage caused directly or indirectly by invasion, insurrection, riot, civil war or commotion, or military or usurped power, or by order of any civil authority; or by theft; or by neglect of the insured to use all reasonable means to save and preserve the property at and after a fire or when the property is endangered by fire in neighboring premises.

This entire policy shall be void, unless otherwise provided by agreement in writing added hereto

Ownership, etc. (a) if the interest of the insured be other than unconditional and sole ownership; or (b) if the subject of insurance be a building on ground not owned by the insured in fee simple; or (c) if, with the knowledge of the insured, foreclosure proceedings be commenced or notice given of sale of any property insured hereunder by reason of any mortgage or trust deed; or (d) if any change, other than by the death of an insured, take place in the interest, title or possession of the subject of insurance (except change of occupants without increase of hazard); or (e) if this policy be assigned before a loss.

Unless otherwise provided by agreement in writing added hereto this Company shall not be liable for loss or damage occurring

Other insurance. (a) while the insured shall have any other contract of insurance, unbeknown to this company or its agent, on property covered by this policy or;

Increase of hazard. (b) while the hazard is increased by any means within the control or knowledge of the insured; or

Repairs, etc. (c) while mechanics are employed in building, altering or repairing the described premises beyond a period of fifteen days; or

Explosives, gas, etc. (d) while illuminating gas or vapor is generated on the described premises; or while (any usage or custom to the contrary notwithstanding) there is kept, used or allowed on the described premises fire-works, greek fire, phosphorus, explosives, benzine, gasoline, naphtha or any other petroleum product of greater inflammability than kerosene oil, gunpowder, exceeding twenty-five pounds, or kerosene oil exceeding five barrels; or

Factories. (e) if the subject of insurance be a manufacturing establishment while operated in whole or in part between the hours of ten p. m. and five a. m., or while it ceases to be operated beyond a period of ten days; or

Unoccupancy. (f) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of ten days; or

Explosion, lightning. (g) by explosion or lightning unless fire ensue, and, in that event, for loss or damage by fire only.

Chattel mortgage. Unless otherwise provided by agreement in writing added hereto this company shall not be liable for loss or damage to any property insured hereunder while incumbered by a chattel mortgage, and during the time of such incumbrance this Company shall be liable only for loss or damage to any other property insured hereunder.

Fall of building. If a building, or any material part thereof, fall except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease.

Added clauses. The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss or damage, and any other agreement not inconsistent with or a waiver of any of the conditions or provisions of this policy, may be provided for by agreement in writing added hereto.

Waiver. No one shall have power to waive any provision or condition of this policy except such as by the terms of this policy may be the subject of agreement added hereto, nor shall any such provision or condition be held to be waived unless such waiver shall be in writing added hereto, nor shall any provision or condition of this policy or any forfeiture be held to be waived by any requirement, act or proceeding on the part of this Company relating to appraisal or to any examination herein provided for; nor shall any privilege or permission affecting the insurance hereunder exist or be

claimed by the insured unless granted herein or by rider added hereto.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case the Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by the Company by giving to the insured a five days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

Pro rata liability. This Company shall not be liable for a greater proportion of any loss or damage than the amount hereby insured shall bear to the whole insurance covering the property, whether valid or not and whether collectible or not.

Noon. The word "noon" herein means noon of standard time at the place of loss or damage.

Mortgage interests. If loss or damage is made payable, in whole or in part, to a mortgagee not named herein as the insured, this policy may be cancelled as to such interest by giving to such mortgagee a ten days' written notice of cancellation. Upon failure of the insured to render proof of loss such mortgagee shall, as if named as insured hereunder, but within sixty days after notice of such failure, render proof of loss and shall be subject to the provisions hereof as to appraisal and times of payment and of bringing suit. On payment to such mortgagee of any sum for loss or damage hereunder, if this company shall claim that as to the mortgagor or owner, no liability existed, it shall, to the extent of such payment be subrogated to the mortgagee's right of recovery and claim upon the collateral to the mortgage debt, but without impairing the mortgagee's right to sue; or it may pay the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Requirements in case of loss. The insured shall give immediate notice, in writing, to this Company, of any loss or damage, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, make a complete inventory of the damaged and undamaged property, stating the quantity and cost of each article and the amount claimed thereon; and, **the insured shall, within sixty days after the fire, unless such time is extended in writing by this Company, render to this Company a**

proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following; the time and origin of the fire, the interest of the insured and of all others in the property, the cash value of the property insured under each item of the policy and the amount of loss or damage thereto, all incumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession, or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of fire; and shall furnish a copy of all the descriptions and schedules in all policies and if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices, and other vouchers, or certified copies thereof, if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

Appraisal. In case the insured and this Company shall fail to agree as to the amount of loss or damage, each shall, on the written demand of either, select a competent and disinterested appraiser. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property insured is located. The appraisers shall then appraise the loss and damage stating separately sound value and loss or damage to each item of the policy; and failing to agree, shall submit their differences only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of sound value and loss or damage. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Company's options. It shall be optional with this Company to take all, or any part, of the articles at the agreed or appraised value, and also to repair, rebuild, or replace the property lost or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required; but

Abandonment. there can be no abandonment to this Company of any property.

When loss payable. The amount of loss or damage for which this Company may be liable shall be payable thirty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss or damage is made either by agreement between the insured and this Company expressed in writing, or by the filing with this Company of an award as herein provided.

Suit. No suit or action on this policy, for the recovery of any claim, shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, nor unless commenced within twelve months next after the liability shall have accrued.

Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss or damage to the extent that payment therefor is made by this Company.

Prior to this act, the following decisions had been made concerning the standard policy law:

A conveyance or transfer that tends to increase the interest of the owner does not come within the provisions of a policy, requiring notice to insurer of a material change in the policyholder's interest.—Foiles v. Det. F. & M. Ins. Co., 175 / 716. Circumstances held to be no breach of a clause requiring notice of foreclosure proceedings known to insurer.—Id. Waiver or estoppel because insured acquainted agent of insurer with the fact of an incumbrance outstanding may arise under the standard policy law and amendments, although a permit in writing was not attached to the policy.—Dahrooge v. Sovereign Fire Assurance Co., 175 / 248. Plaintiff's testimony of notification of agents of state of title held to tend to show waiver of clause nullifying the policy if she had not a fee simple title to the property.—Bryant v. Granite State Fire Ins. Co., 174 / 102. Concurrent insurance.—Smith v. Am. Ins. Co., 177 / 123. Delegation of legislative power.—King v. Concordia Fire Ins. Co., 140 / 259. The policy of our laws relating to the contract of insurance is to place the parties thereto upon an equal footing with respect to the assertion and determination of rights under it, and to secure fairness and equity between the insurers and the assured.—McGraw v. Germania Fire Ins. Co., 54 / 158. Time is not made the essence of the provision of the standard policy relating to proofs.—Steele v. Insurance Co., 93 / 83. The object of this statute was to provide a policy fair to the insured and the insurer and to avoid litigation.—Armstrong v. Insurance Co., 95 / 139. The provision of the standard policy requiring an appraisal is a condition precedent to suit only in case a demand therefor has been made.—Nat'l Home B. & L. Ass'n v. Dwelling House Ins. Co., 106 / 236. This statute comes clearly within that class of cases which hold the word "void" to mean "voidable." The insertion of a clause in the policy, not provided for by this act, renders the policy voidable, not void.—Armstrong v. Insurance Co., 95 / 139-40. The terms of the standard policy of fire insurance are to be construed as employed in the sense in which they were used and interpreted by the courts before that form of policy was adopted.—John Davis & Co. v. Insurance Co., 115 / 382. Arbitration under the terms of standard policy.—Wicking v. Cit. Mut. F. Ins. Co., 118 / 640. There is nothing in the standard fire insurance policy requiring the insured to obtain from an adjuster a certificate that he has suffered loss by fire and the amount thereof.—Burns v. Mut. Fire Ins. Co., 130 / 561. Proofs of loss, under the standard policy may be made by an agent, where the insured is critically ill and unable to attend to any business.—Burns v. Mut. Fire Ins. Co., 130 / 561. A standard insurance policy, issued by a mutual company, held to be an ordinary contract of insurance, which did not make the holders members of the company and liable for assessments.—Osius v. O'Dwyer, 127 / 244. Fire insurance companies being creatures of statute, the legislature may prescribe the forms of their contracts and the limitations in relation to the forfeiture clauses therein.—McGannon v. Fire Ins. Co., 127 / 636. Co-insurance clause.—Att'y General v. Com'r of Insurance, 148 / 566. See Mutual Benefit Life Ins. Co. v. Com'r of Insurance, 151 / 615. Under the provisions of a Michigan standard fire insurance policy, permitting the insurer to cancel the contract on five days' notice, the pro rata part of the premium paid to be returned on surrender of the policy, a notice of cancellation by the insurer to insured terminates the obligation after the specified time, without any tender of the unearned premium.—Webb v. Granite State Fire Ins. Co., 164 / 139. Voiding of policy for breach of promissory warranty.—Macatawa Transp. Co. v. Ins. Co., 168 / 365. Effect of breach of conditions in fire insurance policy as limited by Act 128, P. A. 1911.—Lagden v. Concordia Mut. Fire Ins. Co., 188 / 689. Where moral hazard was not so increased as to avoid the policy on the ground that the insured was not sole and unconditional owner.—First Nat'l Bank v. Ins. Co., 188 / 251. Proof of fraudulent

intent is necessary in order to create a forfeiture of a Michigan standard fire insurance policy, under the clause of a policy providing that in "case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof," the entire policy shall be void.—Barrett v. Conn. Fire Ins. Co., 195 / 209. Action must be brought within one year from date of the fire.—Dahrooge v. Rochester German Ins. Co., 177 / 442. An action at law upon a Michigan standard policy may not be maintained by insured for a loss by fire while an award by appraisers under the provisions of Part 4, chap. 2, section 6, Act No. 256, P. A. 1917, stands unrevoked; his remedy, if any, being in equity to avoid the award.—Innis v. Fireman's Fund Insurance Company, 218 / 253.

Exceptions from standard form.

(248) SEC. 7. No fire insurance company shall issue fire insurance policies on property in this state other than those of the standard form herein set forth, except as follows:

Face of policy.

First, A company may print on or in its policies its name, location and date of incorporation, the amount of its paid up capital stock, the names of its officers and agents, the number and date of the policy, and if it is issued through an agent, the words, "This policy shall not be valid until countersigned by the duly authorized agent of the company at .....;"

Countersignature by agents.

Description of property.

Second, A company may print or use in its policies printed forms of description and specifications of the property insured;

Lightning clause.

Third, A company insuring against damage by lightning may print in the clause enumerating the perils insured against the additional words "also any damage by lightning, whether fire ensues or not," and, in the clause providing for an apportionment of loss in case of other insurance, the words, "whether by fire, lightning or both";

Fourth, The blanks in said standard form may be filled in print or writing;

Fifth, A company shall print upon policies issued in compliance with the preceding provisions of this section the words "Michigan Standard Policy";

Modifying standard form by rider or endorsement.

Sixth, A company may write upon the margin or across the face of a policy or write or print in type not smaller than long primer upon separate slips or riders to be attached thereto, provisions adding to or modifying those contained in the standard form, or may attach a slip or rider providing that no cancellation of the policy shall be made by the company at any time when the property insured is endangered by forest fires or other conflagrations; and all such slips, riders, and provisions must be signed by the officers or agent of the company so using them.

Type to be used.

Said standard form of policy shall be plainly printed and no portion thereof shall be in type smaller than long primer. The form of policy, fixed as above, shall be known and designated as the Michigan standard policy.

Provisions not to apply.

(249) SEC. 8. The provisions of this sub-division shall not apply to policies issued by mutual fire insurance companies organized or doing business under the provisions of chapter four of this part.

Sub-Division Three.—Rider Clauses—Co-Insurance.

Co-insurance clause.

(250) SEC. 9. Whenever any person, firm or corporation shall make written application to any insurance company authorized to do business within the state of Michigan, to attach a co-insurance clause to any existing policy or to one to be issued by such company, the latter shall have the right to issue and attach such co-insurance clause, but not otherwise. Such application shall be made substantially in the following form:

Form of application.

..... hereby request that there be attached to policy number ..... of the ..... insurance company, the following co-insurance clause, to-wit:

"It is hereby agreed that the assured shall maintain insurance during the life of this policy upon the property hereby insured, to the extent of at least ..... per cent of the actual cash value thereof, and that failing to do so, the assured shall be a co-insurer to the extent of the difference between the amount insured and the said ..... per cent, of the cash value, and to that extent shall bear his, her or their proportion of any loss. It is also agreed that if this policy be divided into two or more items, the foregoing conditions shall apply to each item separately;"

To the provisions of which ..... agree in consideration of a reduced premium rate.

Clause to be attached to policy.

It is understood by the undersigned that the effect of the above mentioned co-insurance clause, when attached, will be to reduce the liability of the insurance company, unless the property described in the policy covered by said insurance is insured for ..... per cent of its actual cash value, except where the loss exceeds the amount of the insurance required under this clause.

Att'y General v. Com'r of Insurance, 148 / 566; Dahrooge v. Sovereign Fire Assurance Co., 175 / 251.

Signature of company or agent.

(251) SEC. 10. All co-insurance rider clauses attached to any insurance policy in pursuance of the application mentioned in the preceding section shall be in the form therein stated and duly signed by the company or its authorized agent.

Sub-Division Four.—Average or Pro Rata Clause.

Average or pro rata clause.

(252) SEC. 11. Whenever any person, firm or corporation shall make written application to any insurance company authorized to do business within the state of Michigan to attach to any existing policy or to one to be issued by such company an average or pro rata clause, the latter shall have the right to issue and attach such average or pro rata rider clause but not otherwise.

Form of application.

(253) SEC. 12. Such application shall be made substantially in the following form:

..... hereby request that there be attached to

policy number ..... of the ..... insurance company the following pro rata or average clause, to-wit:

"It is hereby agreed in case of loss, this policy shall attach in or on each building, division or location in such proportion as the values in or on such buildings, division or location bear to the aggregate value of the property insured."

To the provisions of which ..... agree in consideration of a reduced premium rate.

Clause to be attached to policy.

(254) SEC. 13. It shall not be necessary for all average or pro rata rider clauses to be in the exact language used in section twelve of this chapter, but no such clause shall be attached to any policy unless the same shall be an exact duplicate of the clause recited in the application nor until the form thereof shall have been filed with and received the approval of the commissioner of insurance.

Sub-Division Five.

Provision requiring certain amount of insurance, prohibited.

(255) SEC. 14. That it shall be unlawful, except as herein otherwise provided, for any fire insurance company doing business in the state of Michigan to provide by any insurance policy issued by it, or by any clause therein, or by any separate agreement, that the liability of said insurance company to the insured shall be limited or restricted by reason of the failure of the said insured to insure the property covered by said policy for any certain amount or proportion of the actual cash value of such property.

Contrary provisions, void.

(256) SEC. 15. Any provision of any policy, or any contract or agreement contrary to the provisions of this subdivision shall be absolutely void, and any insurance company issuing any policy of insurance containing any such provision shall be liable to the insured under such policy in the same manner and to the same extent as if such provision were not therein contained.

Penalty for chapter violations.

(257) SEC. 16. Any person, corporation, or company that shall, either as principal or agent, wilfully issue or cause to be issued, any policy or contract of fire insurance on property situated within this state, contrary to the provisions of this chapter, shall forfeit the sum of two hundred fifty dollars for each policy or contract so issued. Any company or companies violating the provisions of this chapter, upon notice and satisfactory proof thereof being made to the commissioner of insurance, shall have its or their authority to transact business in the state of Michigan revoked for a period of not less than ninety days, and any insurance company whose license to do business in Michigan may be so revoked by the commissioner of insurance, shall not again be permitted to do business in Michigan until all penalties due hereunder shall be paid, together with any expenses that may be due under the provisions of this act to the commissioner of insurance.

Revocation of authority.

When policy not void.

(258) SEC. 17. No policy of fire insurance shall hereafter be declared void by the insurer for the breach of any condition of the policy if the insurer has not been injured by such

breach, or where a loss has not occurred during such breach, and by reason of such breach of condition.

Added 1921, Act 264.

CHAPTER III.—AUTOMOBILE INSURANCE.

Sub-Division One.

(259) SECTION 1. Seven or more persons may become a corporation for the purpose of writing insurance on automobiles covering in one policy, fire, theft, property damage, liability and collision insurance, together with any other proper form of automobile insurance which may be approved on application to the insurance commissioner. Who may incorporate, purposes.

For other classifications of automobile insurance, see secs. 131, 263 and 315.

(260) SEC. 2. The capital stock of any company organized under sub-division one of this chapter shall in no case be less than two hundred thousand dollars in shares of ten dollars or one hundred dollars each; which capital stock may be increased from time to time by a vote of two- thirds of the stockholders present or represented at any regular meeting called for that purpose: Provided, That the commissioner of insurance shall first be given notice of such proposed increase and shall express approval of the same. Capital stock; minimum. Increase. Proviso, notice.

Am. 1919, Act 133.

(261) SEC. 3. A reserve fund shall be maintained by such company amounting at all times to forty per cent of the premiums on all of its insurance in force, and not less than forty per cent of the earned premiums on all of its liability insurance which has terminated during the preceding five years, less the amount paid for losses and expenses incidental thereto upon claims under said liability insurance which has terminated during the preceding five years. And the amount of the reserve fund so ascertained shall be increased by such an amount as is necessary to provide for claims more than five years old and not liquidated. Whenever the capital of any company authorized under subdivision one of this chapter shall become impaired to the extent of fifteen per cent, or shall otherwise become unsafe, it shall be the duty of the commissioner of insurance to direct such company to take any measure he deems necessary to restore its capital to a safe and sound condition, and to cancel the authority of such company upon its failure to comply with his directions within a reasonable time. Reserve fund. When capital impaired, etc.

(262) SEC. 4. The provisions of this act applicable to the business of stock life insurance companies, relative to deposit of securities with the state treasurer shall govern and regulate automobile insurance companies organized under this sub-division. Provisions applicable.

Sub-Division Two.

Who may incorporate, purposes.

(263) SEC. 5. Mutual Automobile Insurance. Any number of persons not less than fifteen may associate together and form an incorporated company for the purpose of writing mutual insurance upon automobiles, covering in one policy, fire, theft, property damage, liability and collision insurance, together with any other proper form of automobile insurance which may be approved on application to the insurance commissioner.

For other classifications of automobile insurance, see secs. 131, 259 and 315.

Preliminary requirements.

(264) SEC. 6. No company organized under this subdivision shall commence business until bona fide agreements have been entered into for insurance with at least five hundred individuals covering insurance upon five hundred automobiles of a valuation of not less than three hundred thousand dollars, nor until such company shall have on hand and set aside for the payment of losses exclusively, the sum of ten thousand dollars.

Am. 1923, Act 245.

Provision as to limit of amount recoverable.

(265) SEC. 7. Any company incorporated under this subdivision shall provide in its articles of incorporation, that no policyholder shall recover under his policy of insurance over one thousand dollars until the membership reaches five hundred, and not over two thousand dollars when the membership is over five hundred and less than one thousand; and after the membership reaches one thousand, the amount that any member can recover under any policy shall be limited to five thousand dollars: Provided, That no such company shall insure any person against damage to his own car on account of collision until the membership reaches one thousand.

Proviso.

Assessments for a surplus fund.

(266) SEC. 8. Any company incorporated under this subdivision shall have the right to provide in its articles of incorporation, for the collection at each assessment not exceeding fifty cents per horse power on each automobile insured, for the purpose of accumulating a surplus in addition to such assessments as are necessary for the payment of current losses and expenses, until such time as the accumulated surplus of the company shall equal one dollar per horse power on each automobile insured.

CHAPTER IV.—MUTUAL FIRE, CYCLONE AND HAIL COMPANIES.

Mutual plan.

(267) SECTION 1. Companies may be incorporated upon the mutual plan to insure against loss and damage by fire, lightning, cyclones, windstorms, tornadoes and hail, by complying with the provisions of this chapter as provided in the succeeding sections.

See Act 388, P. A. of 1921, secs. 355-59.

(268) SEC. 2. Farmers' Mutuals. Any number of persons, not less than seven, may associate together for the purpose of mutual insurance of the property of its members against loss by fire or damage by lightning, which property to be insured may embrace dwelling houses, stores and all other kinds of buildings, and upon household furniture, goods, wares and merchandise and any other property: Provided, however, That where the property insured consists of buildings or personal property other than farm property, or dwelling houses and their contents, the amount of any one risk on either of said classes of property assumed by any company organized under the provisions of this section shall not exceed two thousand dollars: Provided further, That nothing herein contained shall authorize farmers' mutuals organized under the provisions of this section to insure risks other than dwelling houses, their contents and farm property, situated within the corporate limits of any city or village whose population is in excess of five thousand inhabitants; nor in any city or villages having a population of less than five thousand inhabitants unless a majority of the members of such mutual company present at an annual meeting shall by affirmative resolution so determine: Provided further, That the limitations contained in the foregoing provisos shall not apply to companies organized under the provisions of section nine of this chapter. Whenever any public or private corporation, board or association in this state has entered into an agreement for and holds a policy in any such mutual insurance company, any officer, stockholder or trustee of any such corporation, board or association who may be designated by such corporation, board or association, may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this state to participate as a member of any such mutual insurance company is hereby declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred.

Who may associate; number.

Proviso, risks other than farm property.

Proviso, risks not authorized.

Proviso, companies not here limited.

Person acting for corporation.

Right of corporation to participate as member.

Am. 1919, Act 407.

For other classification of automobile insurance, see secs. 131, 259, 263 and 315.

Where a company describes the property in its policy as in a village, it is estopped from denying that the place described is a village, because it is neither platted nor incorporated.—Russell v. Detroit Mut. Fire Ins. Co., 80 / 407. Where, by the terms of the insurance contract, the statements in the application are made warranties, a misrepresentation as to the amount of incumbrance on the insured property will avoid the policy.—Niles v. Farmers' Mut. Fire Ins. Co., 119 / 252. The charter and by-laws of a mutual insurance company constitute a part of the contract of insurance.—Am. Ins. Co. v. Stoy, 41 / 385. A fire insurance company is not estopped to defend an action on a policy, on the ground of a wilful burning of the property by the plaintiff, by the fact of a criminal complaint made against the plaintiff by one of its officers and a discharge of the plaintiff on examination, or by the fact that, with knowledge of the circumstances, it collected an assessment from the plaintiff for the loss.—Barnett v. Mut. Fire Ins. Co., 115 / 247. Authority of board of auditors of mutual fire insurance company.—Denton v. Mut. Fire Ins. Co., 120 / 690. One who becomes a member of a foreign mutual insurance corporation subjects himself to such laws of the government of its situs as affect its powers and obligations.—Warner v. Delbridge & Cameron Co., 110 / 590. But the purchaser of property does not become a member of a mutual assurance company by assignment of a policy, without

the secretary's approval, and the approval endorsed on the policy after loss will not avail.—Harper v. Mich. Mut. Tornado, Cyclone and Windstorm Ins. Co., 173 / 459. A policy of insurance issued upon farm products, farm implements, etc., does not cover the fixtures and utensils of a slaughter-house, conducted by insured, and used in a wholesale meat business in which he is engaged.—Geraghty v. Insurance Co., 145 / 635. Where at the time of becoming a member of a mutual fire insurance company and receiving a policy, plaintiff signed a note for premium which provided that if it was not paid at a certain time the policy should become and remain void until the note should be paid, plaintiff is estopped to contend that the taking of the note was ultra vires, and that his failure to pay did not avoid his policy.—Hale v. Farmers' Mutual Ins. Co., 148 / 453. A mutual fire insurance company whose charter contemplates the issuance of policies, not mutual, for a cash premium, has no power to issue such policies, which are expressly prohibited by statute.—Ely v. Oakland Circuit Judge, 162 / 466. Agents and officers of mutual fire insurance companies, in which the charter and by-laws determine the rights of members, have less authority than those of stock companies in creating a waiver of conditions contained in contracts; officers have no power to bind their companies by other inconsistent contracts or provisions.—Brewing Co. v. Fire Ins. Co., 168 / 606. The provisions of the charter of a mutual fire insurance company will be strictly construed against the company, where it is seeking to take advantage of them to defeat a claim.—Leonard v. Farmers' Mut. Fire Ins. Co., 192 / 230.

Mercantile mutuals.

(269) SEC. 3. Mercantile Mutuals. Any number of owners or operators of banks or mercantile establishments, not less than ten, being residents of the state, may associate together and form an incorporated company for the purpose of insuring property against loss or damage by fire or lightning, which property, primarily to be insured, shall consist of merchandise, goods, chattels, ware houses, store and office fixtures; or secondarily, may include store buildings, ware houses, stores, out-buildings and their contents, used and held in the ordinary conduct of banking and mercantile business of the country.

Millers' mutuals.

(270) SEC. 4. Millers' Mutuals. Any number of owners or operators of flouring mills or grist and feed mills, not less than ten, being residents of the state, may associate together and form an incorporated company for the purpose of insuring property against loss or damage by fire or lightning, which property primarily to be insured shall consist of flouring, grist or feed mills, with the accompanying machinery and stock, or secondarily, may include elevators, ware houses, stores, store houses, or out-buildings and their contents, or manufactories of flour, meal, feed or other products of the country, and the machinery necessary to run the same, and the stock connected with the manufacture or conduct of such business.

Manufacturers' mutuals.

(271) SEC. 5. Manufacturers' Mutuals. Any number of owners or operators of mills, factories, buildings or machinery used for manufacturing purposes, residents of this state, not less than ten in number, may associate together and form an incorporated company, for the purpose of insuring the property of its members against loss or damage by fire or lightning; which property to be insured shall consist of mills, factories, elevators and ware-houses, or fixtures, tools, machinery, engines, and implements therein, and the lumber yards and raw material or manufactured products, stock and other property forming part of such manufacturing property belonging to such business.

Policyholders in these companies are liable only for losses occurring during the lifetime of their policies.—Detroit M. Mut. F. Ins. Co. v. Merrill, 101 / 393. An arrangement by which the directors of a company organized hereunder execute a bond to the company for the purpose of establishing a reserve guaranty fund

to its assets, to be drawn upon by the board of directors to protect policyholders from assessment upon deposit notes and which makes the obligors creditors of the company to the amount of advances, is void.—Goss v. Peters, 98 / 112. Limitation of actions.—Pratt v. Broadwell, 159 / 375.

Threshers' mutuals.

(272) SEC. 6. Threshers' Mutuals. Any number of manufacturers, owners or operators of grain, bean and grass seed threshing machinery, hay pressing machinery, corn husker and shredder, portable engines, whether traction or otherwise, steam or gas, portable saw mills and feed-mills, operated or driven by portable engines, not less than ten in number, being residents of the state, may associate together and form an incorporated company for the purpose of insuring property against loss or damage by fire or lightning, which property primarily to be insured shall consist of portable engines, steam or gasoline, whether traction or otherwise, grain separators and attachments, bean threshers, clover hullers, hay pressing machinery, portable saw mills, and feed mills, operated or driven by portable engines.

Retail lumber dealers' mutuals.

(273) SEC. 7. Retail Lumber Dealers' Mutuals. Any number of retail lumber dealers, whether incorporated or not, not less than twenty-five in number, who collectively shall have invested in the retail lumber business an aggregated value of not less than fifty thousand dollars, may associate together and form an incorporated company for the purpose of insuring their stocks of lumber, sheds, offices and fixtures generally kept in retail lumber yards, against loss and damage by fire or lightning.

Shoe dealers' mutuals.

(274) SEC. 8. Shoe Dealers' Mutuals. Any number of shoe dealers, whether individuals, co-partnerships or corporations, not less than twenty-five, who collectively shall have capital invested in the boot and shoe business within this state to the aggregate value of not less than one hundred thousand dollars or more, may associate together and form an incorporated company for the purpose of insuring their stocks of boots and shoes, stores, store fixtures and contents against loss and damage by fire and lightning.

Mutual cyclone, windstorm and tornado companies.

(275) SEC. 9. Mutual Cyclone, Windstorm and Tornado Companies. Any number of persons, not less than twenty, may associate together and form an incorporated company for the purpose of insuring property against loss by cyclones, windstorms and tornadoes, which property to be insured may embrace any kind or class of property mentioned in section two of this chapter.

Mutual hail companies.

(276) SEC. 10. Mutual Hail Companies. Any number of persons not less than twenty, may associate together and form an incorporated company for the purpose of insuring property of its members against loss or damage by hail, which property to be insured may embrace grains, fruits, and other farm products as the charters and by-laws of said companies may provide.

Temporary absence of teams, wagons, etc.

(277) SEC. 11. When any team, harness, wagons and contents of such wagons are temporarily, not exceeding forty-eight hours continuously in a building, and not absent from the owner's premises to exceed ten days, placed in any build-

ing not insurable under the provisions of this chapter and said team, harness, wagons and contents of such wagons belong to a member of said company or companies, is destroyed or damaged by fire or lightning while temporarily, not exceeding forty-eight hours continuously in a building and not absent from the owner's premises to exceed ten days in such building, the terms of the policy issued by any company organized under section two of this chapter shall be construed to cover such property so destroyed or damaged.

Where the by-laws prohibit the insurance of village property within 100 feet of other buildings, a company is not liable for a horse, harness, cushion and blanket insured as "personal farm property in buildings and on farm," but destroyed in the barn of a village hotel within 100 feet of other buildings.—Wildey v. Farmers' Mut. Ins. Co., 52 / 446. Loss of horse by lightning while away from home barn; liability of company for loss.—Hapeman v. Mut. Fire Ins. Co., 126 / 191.

Requirements before commencing business.

(278) SEC. 12. No insurance company hereafter organized under this chapter, except as herein otherwise provided, shall commence business until bona fide agreements have been entered into for insurance with at least one hundred individuals covering property to be insured to the amount

Miller's.

of not less than one hundred thousand dollars; no company organized under section four of this chapter shall commence business until bona fide agreements have been entered into for insurance with at least ten individuals, covering property to be insured to the amount of not less than one hundred

Manufacturer's.

thousand dollars; no company organized under section five of this chapter shall commence business until it shall be possessed of not less than sixty thousand dollars in premiums, upon which not less than nine thousand dollars have been paid in cash, and the remainder in notes or agreements of solvent parties founded on actual bona fide applications for

Hail.

insurance; and no company organized under section ten of this chapter shall commence business until bona fide agreements have been entered into for insurance with at least one hundred individuals, covering property to be insured to the amount of not less than one hundred thousand dollars, which property in the first instance shall be located in not less than five counties, and not more than twenty-five thousand dollars of said property to be insured under such original application shall be located in any one county.

Where the charter makes it the absolute right of farm owners in the county to become members on subscribing the articles and applying for insurance on prescribed terms, the secretary cannot cut off such right by refusing an actual tender from one already a member and an applicant for insurance.—Gay v. Farmers' Mut. Ins. Co., 51 / 245. A policyholder in a mutual fire insurance company does not become a member, until he receives his policy.—Russell v. Detroit Mut. Fire Ins. Co., 80 / 407. Policies issued outside of the territorial limits fixed by this act are void.—Eddy v. Mut. Fire Ins. Co., 72 / 651.

Liability of members, stated in articles.

(279) SEC. 13. It shall be the duty of the incorporators of any company organized under, or subject to the provisions of, this chapter to prescribe in their articles of association, the liabilities of the members to be ratably assessed towards defraying the losses and expenses of such companies, and the mode and manner of collecting such assessments, and the members shall be liable to assessment for all liabilities of

the company to the extent declared in the articles of association; and the liability of the persons insured in such companies and the members thereof, for the losses or expenses of such companies, shall not exceed the liabilities assumed by such persons when taking such insurance or by such member when joining such company, and in payment in full by such person or member of the amount assumed or agreed to be paid on taking such insurance, or on becoming a member of such company, the said persons so insured as aforesaid and the said members of such companies shall be released and absolved from any and all further liability, for such losses or expenses.

A member of a mutual fire insurance company is liable, on surrender of his policy, for his proportionate share of all losses and expenses sustained by the company while his policy was in force, including deficiencies arising from failure to collect from irresponsible members their share of an assessment made to meet such expenses and losses.—Peake v. Yule, 123 / 675; Cavanagh v. Connon, 123 / 685. Liability of persons to pay their proportion of assessments cannot be avoided by any arrangement with the company limiting such liability; nor can it be lessened by any provisions in the articles of association.—Russell v. Berry, 51 / 287. Where the charter and by-laws require an assessment to be prepared by the secretary and signed by a majority of the board of directors, an unsigned and uncertified paper containing no headings to explain the figures set down cannot be treated as an official assessment.—Baker v. Cit. Mut. Fire Ins. Co., 51 / 243. A void assessment is no impediment to a new assessment.—Farmers' Mut. Fire Ins. Co. v. Judge, 100 / 606. Forfeiture of insurance, for non-payment of an assessment by a mutual insurance company cannot be sustained, where the assessment was invalid.—Johnson v. Mut. Fire Ins. Co., 110 / 488. Invalid assessment of mutual fire insurance company and ratification thereof.—Johnson v. Mut. Fire Ins. Co., 110 / 488. Forfeiture of mutual fire insurance policy by non-payment of assessment.—Hill v. Mut. Fire Ins. Co., 129 / 141. The acceptance of past due assessments after loss and ordering payment is a waiver of forfeiture for delinquency in paying such assessments.—Farmers' Mut. F. Ins. Co. v. Bowen, 40 / 147.

(280) SEC. 14. The articles of association and by-laws of any such company organized under or subject to the provisions of this chapter, may provide for the receiving of applications or agreements from its members for insurance, with or without taking from the insured any premium note or notes; and it shall be lawful for such mutual insurance companies, to make assessments upon such agreements, or policies issued thereon, or upon the premium note or notes, as the case may be, pro rata, according to the amount of such agreement or policies, or premium note or notes for the payment of the losses and expense incurred by such companies, and all such premium notes, or agreements, or assessments, shall be a lien upon the property insured to the amount of such note, notes, agreements, assessments, costs and interest thereon.

Premium notes may be provided for in articles and by-laws.

The statute makes every assessment a lien upon the property insured to the amount of the assessments, costs and interest due thereon.—Wardle v. Townsend, 75 / 395. The receiver cannot maintain a bill in chancery to declare a lien on insured property where the amount involved is less than $100.00.—Peake v. Bradley, 121 / 182. As to when suits may be brought, see Baptist Church v. Insurance Co., 119 / 205; Putze v. Fire Insurance Co., 132 / 675.

(281) SEC. 15. No company shall hereafter be organized under the provisions of this chapter for the purpose of insuring property other than that mentioned in sections one to eleven inclusive, hereof: Provided, That any mutual insurance company whose business is limited by law or charter to one or more counties, may provide in its charter or by amendment to its charter for insuring the personal and real property

Companies hereafter organized.

Proviso, real or personal property out side county.

of its members who reside within any county in which the company is authorized to do business, said real or personal property being situated outside said county or counties in which such company is authorized to insure, but in a county adjoining the same; and for extending the insurance on personal property insured in the company, such as teams, harnesses, robes, blankets, wagons, et cetera, when temporarily absent not to exceed thirty days in a county adjoining a county or counties in which said company is authorized to issue policies, during which insurance on such personal property shall be in force as fixed in the company's charter in relation thereto: Provided further, That upon the adoption of such article the same shall automatically extend to all existing policies as if the same were incorporated therein.

Further proviso.

Levy of assessments to cover liabilities.

(282) SEC. 16. It shall be the duty of the president and secretary or other executive officer or officers having power to levy assessments for each and every mutual insurance company doing business in this state under authority of this chapter to levy an assessment on the members according to classification thereof, sufficiently to cover all liability of the company at each and every assessment: Provided, That if any year the total amount of loss of any such mutual insurance company exceeds the amount of four mills on a dollar, the said officers of such company may carry forward one-half of such total amount of loss in excess thereof and include such sum in an assessment to be made during the year immediately following. The remaining amount of such loss in excess thereof shall be carried forward and included in an assessment to be made during the second year immediately following the year during which such loss was sustained.

Proviso, excessive loss.

Penalty on officer refusing to make assessments.

(283) SEC 17. Any person being a resident of this state, acting as president, secretary or other officer of any such mutual insurance company, doing business in this state under authority of this chapter who shall wilfully refuse, or neglect to make assessments as provided in the last preceding section of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars nor less than five hundred dollars, or by imprisonment in the county jail not less than six months nor more than one year, or both such fine and imprisonment in the discretion of the court.

Circular itemized report to members annually.

(284) SEC. 18. That it shall be the duty of the secretary of each mutual insurance company, doing business in this state under authority of this chapter to make out and deliver by mail, or otherwise, each year, to each individual member of such company, a printed schedule or circular itemized report, giving statement of all money, or moneys, received by such company during the year, and on what account, and from what source received, and the total amount received during the year; and also giving an itemized statement of all the money or moneys paid out, or disbursed during the year by such company, and for what purpose or purposes, also the total amount paid out.

(285) SEC. 19. Any person, being a resident of this state, acting as secretary of any such mutual insurance companies, doing business in this state, who shall wilfully refuse, or neglect to make out and deliver the reports, as provided in the last preceding section of this chapter, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be subject to a fine of not more than one hundred dollars. Penalty for not making report.

(286) SEC. 20. That any justice of the peace of this state is hereby authorized and required to issue subpoenas, and compel the attendance of witnesses before the president, vice-president, secretary, board of directors, or either of the directors, or the auditor or board of auditors of any mutual insurance company organized under the laws of this state, whenever requested so to do by said officers of such insurance companies, or any one of them, or the insured, to give evidence in any matter touching the adjustment or arbitration of losses by fire or other cause which may come before such officer or officers; and such subpoena shall be valid to compel the attendance of a witness within the same county where such matter is to be tried, and within thirty miles of the place of such trial. The opposite party interested in such adjustment or arbitration shall be notified, without cost to him or them, at least twenty-four hours in advance, of the time and place where such witnesses are to be examined, and he or they shall have the right to appear by attorney or in person, and cross-examine all witnesses produced. Compelling attendance of witnesses.

Unreasonable delay in arbitrating justifies action on policy.—Shapiro v. Patrons Mut. Fire Ins. Co. of Mich., 219 / 581.

(287) SEC. 21. Any such subpoena may be served by a sheriff, constable or any other person, and it shall be served by delivering a copy thereof, and by paying or tendering to him the same fees for traveling and one day's attendance as are allowed by law in justice courts. Service of subpoena.

(288) SEC. 22. Whenever it shall appear to the satisfaction of said justice of the peace, by affidavit of a party interested in said adjustment or arbitration, or by other competent testimony, that any person duly subpoenaed to appear as required in said subpoena, shall have refused or neglected without just cause to attend as a witness in conformity to such subpoena, and the testimony of such witness is material, as the deponent verily believes, the said justice shall have power to issue an attachment to compel the attendance of such witness, and said witness shall be liable for the cost of such attachment for the service of the same, which costs may be recovered in an action of assumpsit at the suit of the party injured by such neglect or refusal, before any court having competent jurisdiction in like cases, and shall moreover be liable to said injured party in damages. Attachment to compel attendance.

(289) SEC. 23. Any one of said officers of such insurance companies shall have the power, and they are hereby authorized to administer an oath to said witnesses or parties so Officers may administer oaths.

testifying before them in the adjustment or arbitration of such losses, and said witnesses shall be liable to the same pains and penalties for perjury as are now provided by law.

PART FIVE.—SPECIAL FORMS OF INSURANCE.

CHAPTER I.—EMPLOYER'S LIABILITY.

Sub-Division One.

Who may incorporate.

(290) SECTION 1. Any number of persons, firms, partnership, associations or corporations, not less than five, who have become subject to the provisions of the laws of Michigan relating to employer's liability and workmen's compensation, and who own or operate mills, factories, manufacturing establishments of any and every kind, buildings, stores, hotels and mercantile establishments, or any combination of manufacturing and mercantile business, mines, quarries, blast furnaces, railroads and transportation companies, telegraph and telephone companies, or who are engaged in the production or supplying of gas and electricity for lighting, fuel, power, or other purposes; printing, publishing and bookmaking or in carrying on any other lawful business in the state of Michigan, may associate together and form an incorporated company for the purpose of mutual insurance of its members against liability for any and all payments which may become due and payable to their employes under the provisions of law for death benefits, disability benefits, or otherwise, as hereinbefore set forth: Provided, however, That the persons, firms or corporations so associating themselves together for the organization of such company shall have on their pay rolls at that time not less than five thousand employes.

Proviso, number on pay rolls.

Act 43, P. A. of 1921, abolished the industrial accident board, and transfers its powers and duties to the department of labor and industry, created by the above-mentioned act.

Articles of association, what to set forth.

(291) SEC. 2. In addition to the requirements of chapter one, part two hereof, such articles of association shall set forth:

The names of the persons, firms, partnership associations and corporations associating in the first instance, their respective residences, the nature of the business in which they are engaged, and the number of persons employed therein by each of them;

That each and all of such incorporators have elected, with the approval of the industrial accident board, to become subject to the provisions of act number ten, public acts of nineteen hundred twelve, first extra session, and are forming this corporation for the purpose of mutually insuring their members against liability for any and all payments which may become due and payable to their employes under the provisions of said act.

(292) SEC. 3. The board of directors shall determine the amount of the premiums or assessments which the members of such company shall pay for such insurance, in accordance with the nature of the business in which they are engaged, and the probable risk of injury to their employes under existing conditions. The board may also prescribe when and in what manner such premiums shall be paid, and may change the amount thereof both in respect to any or all of its members from time to time, as circumstances may require and the conditions of their respective plants, establishments or places of work in respect to the safety of their employes may justify, but all such premiums or assessments shall be levied on a basis that shall be fair, equitable and just as among such members; and it shall be the duty of such board of directors at the beginning of each fiscal year, to call for the required payment of premiums in such amount as shall, in the judgment of the commissioner of insurance, be sufficient to enable such company to pay all sums which may become due and payable during the following year, to the employes or any of its members and also the expenses of conducting its business.

Amount of premiums, etc., how determined.

How and when paid.

(293) SEC. 4. The company shall in its by-laws and policies fix the contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash funds. Such contingent liability of a member shall not be less than an amount equal to the liability imposed by this act and of act number ten, public acts of nineteen hundred twelve, first extra session.

Contingent mutual liability.

(294) SEC. 5. If the company is not possessed of cash funds so that it has unearned premiums sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon the members liable to assessment therefor in proportion to their several liability. Every member shall pay his proportional part of any assessment which may be laid by the board of directors, in accordance with the law and his contract on account of injuries sustained and expenses incurred while he is a member of such company.

Assessment for.

(295) SEC. 6. The board of directors may, from time to time, by vote, fix and determine the amount to be paid as a dividend upon policies expiring during each year after retaining sufficient sums to pay all the compensation which may be payable on account of injuries sustained and expenses incurred. All premiums, assessments and dividends shall be fixed and determined in accordance with the experience of said company, but all the funds of the company, and the contingent liability of all the members thereof, shall be available for the payment of any claim against the company.

Dividends on policies expiring.

How determined.

(296) SEC. 7. Any proposed premium or assessment required of, or any dividend or distribution made to the members, shall be filed with the commissioner of insurance, and

To be filed and approved.

shall not take effect until approved by said commissioner after such investigation as he may deem necessary.

Rules and regulations.

(297) SEC. 8. The board of directors may make and enforce reasonable rules and regulations, not in conflict with the laws of this state, for the prevention of injuries on the premises of members, and for this purpose the inspectors of the company shall have free access to all such premises during regular working hours. Any member neglecting to provide suitable safety appliances as provided by law or as required by the board of directors may be expelled by a majority vote of all the members. Any member, or employe of any member, aggrieved by any such rule or regulation, may petition the industrial accident board for review, and it may affirm, amend or annul the rule or regulation.

Aggrieved members.

Withdrawals.

(298) SEC. 9. Any member of said company, who has complied with all its rules, regulations and demands, may withdraw therefrom at the expiration of the period of one year for which he has elected to become subject to the provisions of the workmen's compensation act, so-called: Provided, however, That he shall give written notice of such withdrawal to said company at least thirty days before the expiration of such period: And provided further, That if at the time of such withdrawal liability may exist against such member and against said company for compensation to employes who have been theretofore killed or injured as in said act provided, such member shall either relieve himself and said company from such liability in the manner provided in part four, section four of act number ten, public acts of nineteen hundred twelve, extra session, or shall otherwise protect and indemnify said company against such liability in such reasonable manner as may be required by the board of directors.

Proviso, notice.

Further proviso, liability.

Sub-Division Two.

Classification of risks, etc., to be filed.

(299) SEC. 10. Every employer's liability company and every employer's insurance association insuring employers against the liability provided for by act number ten of the public acts of nineteen hundred twelve, first extra session, as amended, shall file with the insurance commissioner of the state its classification of risks and normal premiums relating thereto together with any and all reasonable percentage of allowance made upon such premiums above or below the said normal premium for increased or diminished hazards in said classifications of risks. The classifications so filed shall be classifications upon which the insurer filing same shall classify its risks and the premiums and percentages of allowances thereon shall be the premiums which must be charged by the insurer filing same, on its risks until such classification and premiums and percentage allowances shall be changed as herein provided.

Unfair discrimination.

(300) SEC. 11. No insurer against liability provided for in this chapter shall fix any classification or allowance or charge any premium against liability under said act number

ten of the public acts of nineteen hundred twelve, which is unreasonable or which discriminates unfairly between risks in the application of like charges and credits, or which discriminates unfairly between risks on essentially the same hazards and having substantially the same degree of protection against accident.

Uniform deviation.

(301) SEC. 12. Any deviation of any such insurer from the classifications and schedules of premiums and percentages relating hereto, as filed with the insurance commissioner shall be uniform in its application to all the risks in the class for which the deviation is made, and no such uniform deviation shall be made unless notice thereof shall be filed with the insurance commissioner of the state at least fifteen days before such uniform deviation is in effect.

Anti-discrimination commission created.

(302) SEC. 13. The state banking commissioner, the attorney general and the commissioner of insurance, of this state, shall constitute a commission, and upon written complaint or upon its own information that discrimination in classification of risks or in the normal premiums relating thereto, or in any percentage of allowance upon such premiums exists, or that any such classification of risks or that any premiums or any percentage of allowance upon such premiums discriminates between risks of essentially the same hazard and having substantially the same degree of protection against accident, the commission may order a hearing for the purpose of determining such questions of discrimination and the review of such classification of risks, such premiums or such percentage allowance before said commission shall be had only after due notice to all parties interested, and if upon such hearing the commission shall determine that said classification, such premium or premiums or such percentage allowance is or are discriminatory, it shall have power to order the discrimination removed. Any party in interest being dissastified with any order of the commission may within thirty days from the issuance of such order and notice thereof commence an action in the circuit court in chancery for the county of Ingham against the commission, as defendant, to vacate and set aside any such order upon the ground that such order is unlawful or unreasonable; in which suit the commission shall be served with a subpoena and a copy of the complaint. The commission shall file its answer and on leave of court any interested party may file an answer to said complaint. Upon the filing of the answer of the commission said action shall be at issue and stand ready for hearing upon ten days' notice by either party. The said circuit court for the county of Ingham in chancery is hereby given jurisdiction of such suits and empowered to affirm, vacate or set aside the order of the commission in whole or in part, and to make such other order or decree as the court shall decide to be in accordance with the facts and the law. During pendency of such proceedings the order shall be suspended, and in the

May order hearing.

Action to vacate order.

Answer.

When at issue.

Jurisdiction.

event of final determination against any insurer, any overcharge during the pendency of such proceedings shall be refunded by the insurer to the persons entitled thereto.

CHAPTER II.—RECIPROCAL INSURANCE.

Reciprocal insurance.

(303) SECTION 1. Individuals, partnerships and corporations of this state, hereby designated subscribers, are hereby authorized to exchange reciprocal or inter-insurance contracts with each other, or with individuals, partnerships and corporations of other states and countries providing indemnity among themselves and from any loss which may be insured against under other provisions of the laws, including employers' liability and workmen's compensation insurance, and excepting life, health and accident insurance: Provided, however, That indemnity against accident may be exchanged between persons engaged in the same general line of employment.

Proviso, indemnity against accident.

Who may execute.

(304) SEC. 2. Such contracts may be executed by an attorney, agent or other representative, herein designated attorney, duly authorized and acting for such subscribers.

Declaration, what to set forth.

(305) SEC. 3. Such subscribers so contracting among themselves shall through their attorney file with the insurance commissioner of this state a declaration verified by the oath of such attorney, setting forth:

(a) The name or title of the office at which such subscribers propose to exchange such indemnity contracts;

(b) The kind or kinds of insurance to be effected or exchanged;

(c) A copy of the form of policy contract or agreement under or by which such insurance is to be effected or exchanged;

(d) A copy of the form of power of attorney or other authority of such attorney under which such insurance is to be effected or exchanged, which form or forms of policy contract mentioned in sub-division (c) shall authorize such attorney to comply with the provisions of section four of this chapter;

(e) The location of the office or offices from which such contracts or agreements are to be issued;

(f) That applications have been made for indemnity upon at least one hundred separate risks aggregating not less than one and one-half million dollars as represented by executed contracts or bona fide applications to become concurrently effective, or, in case of liability or compensation insurance covering a total payroll of not less than one and one-half million dollars;

(g) That there is on deposit with such attorney and available for the payment of losses, a sum of not less than twenty-five thousand dollars.

Service of process.

(306) SEC. 4. Concurrently with the filing of the declaration provided for by the terms of section three hereof, the attorney shall file with the insurance commissioner an in-

strument in writing executed by him for said subscribers, conditioned that upon the issuance of certificate of authority provided for in section ten hereof, service of process may be had upon the insurance commissioner in all suits in this state arising out of such policies, contracts or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or inter-insurance contracts through such attorney. Three copies of such process shall be served and the insurance commissioner shall file one copy, forward one copy to said attorney, and return one copy with his admission of service.

Copies of service of process.

(307) SEC. 5. There shall be filed with the insurance commissioner of this state by such attorney a statement under the oath of such attorney, showing the maximum amount of indemnity upon any single risk, and such attorney shall, whenever and as often as the same shall be required, file with the insurance commissioner a statement verified by his oath to the effect that he has examined the commercial rating of such subscribers as shown by the reference book of a commercial agency having at least one hundred thousand subscribers, and that from such examination or from other information in his possession it appears that no subscriber has assumed on any single risk an amount greater than ten per cent of the net worth of such subscriber.

Statement, maximum single risk.

Commercial rating of subscribers.

(308) SEC. 6. There shall at all times be maintained as a reserve, a sum in cash or convertible securities equal to fifty per cent of the net annual deposits collected and credited to the accounts of the subscribers on policies having one year or less to run and pro rata on those for longer periods. Net annual deposits shall be construed to mean the advance payments of subscribers after deducting therefrom the amounts specifically provided in the subscriber's agreements, for expenses. Said sum shall at no time be less than twenty-five thousand dollars, and if at any time fifty per cent of the deposits so collected and credited shall not equal that amount, then the subscribers, or their attorney for them, shall make up any deficiency.

Reserve fund

Net annual deposits, how constructed.

(309) SEC. 7. Such attorney shall make a report to the insurance commissioner for each calendar year, on the fifteenth day of February, showing the financial condition of affairs at the office where such contracts are issued and shall furnish such additional information and reports as may be required: Provided, however, That such attorney shall not be required to furnish the names and addresses of any subscribers, nor the loss ratio. The business affairs, assets and contingent liability of such organizations shall be subject to examination by the insurance commissioner.

Annual financial statements.

Proviso.

(310) SEC. 8. Any corporation now or hereafter organized under the laws of this state shall, in addition to the rights, powers and franchises specified in its articles of incorporation, have full power and authority to exchange insurance contracts of the kind and character herein mentioned. The right to exchange such contracts is hereby de-

Power to exchange contracts.

clared to be incidental to the purposes for which such corporations are organized, and as much granted as the rights and powers expressly conferred.

Solicitation, etc., without certificate of authority.

(311) SEC. 9. Any attorney who shall, except for the purpose of applying for certificate of authority as herein provided, exchange any contracts of indemnity of the kind and character specified in this chapter, or directly or indirectly solicit or negotiate any applications for same without first complying with the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars.

Misdemeanor.

Certificate of authority to be procured annually.

(312) SEC. 10. Each attorney by or through whom are issued any policies of or contracts for indemnity of the character referred to in this chapter, shall procure from the insurance commissioner annually a certificate of authority stating that all the requirements of this chapter have been complied with, and upon such compliance and the payment of the fees required by this chapter, the insurance commissioner shall issue such certificate. In case of a breach of any of the conditions imposed by the provisions of this chapter, the insurance commissioner may revoke the certificate of authority issued hereunder.

Commissioner may revoke certificate.

Annual license fee.

(313) SEC. 11. Such attorney, in lieu of all other taxes, of whatever character in this state, shall pay to the state with the filing of each annual report, as an annual license fee two per cent of the gross premiums or deposits for the preceding calendar year, deducting all amounts distributed to subscribers or credited to their accounts.

Exemption.

(314) SEC. 12. Except as specified in this chapter, the making of contracts as in this chapter provided for and such other matters as are incident thereto, shall not be subject to the laws of this state relating to insurance unless they are therein specifically mentioned.

CHAPTER III.—GENERAL MUTUAL LAW.

Number may associate.

(315) SECTION 1. Any number of persons, not less than twenty, a majority of whom shall be bona fide residents of this state, by complying with the provisions of this chapter, may become together with others who may hereafter be associated with them or their successors, a body corporate, for the purpose of carrying on the business of mutual insurance as herein provided.

Articles of association, contents.

(316) SEC. 2. Any persons proposing to form any such company shall subscribe and acknowledge articles of association specifying:

(a) The name, the purpose for which formed and the location of its principal or home office, which shall be within this state;

(b) The names and addresses of those composing the board of directors in which the management shall be vested until the first meeting of the members;

(c) The names and places of residence of the corporators.

(317) SEC. 3. No name shall be adopted by such company which does not contain the word "mutual" or which is so similar to any name already in use by any such existing corporation, company or association, organized or doing business in the United States, as to be confusing or misleading. Corporate name.

(318) SEC. 4. Such articles of association shall be submitted to the commissioner of insurance, herein designated "commissioner," and if prepared in accordance with this chapter, he shall approve and file the same in his office. Such articles of association may be amended by a majority vote of members voting at any annual or special meeting called for that purpose. Notice of such annual or special meeting and the purpose thereof shall be either served on each member at least three weeks previous thereto, or published in a newspaper printed, published and circulated within the county or counties in which the said company is transacting business, at least two successive weeks prior to said meeting, the last publication to be made at least five days prior to date of holding such meeting. Any such amendment shall be filed as provided by law for the original articles. Commissioner to approve articles of association. How amended. Notice of annual meeting.

Am. 1921, Act 396.

(319) SEC. 5. The company shall have legal existence from the approval and filing of such articles in the office of the commissioner. The board of directors named in such articles may thereupon adopt by-laws and proceed to transact the business of such company: Provided, That no insurance shall be put into force until the company has been licensed to transact insurance as provided by this chapter. Legal existence. By-laws. Proviso.

(320) SEC. 6. Any company or their agents organized under the provisions of this chapter is empowered and authorized to make contracts of insurance or to reinsure or accept reinsurance on any portion thereof, for the kinds of insurance following, to the extent permitted to any one stock insurance company: Provided, however, That companies doing a general casualty business shall be permitted to insure automobiles against the hazard of fire: Authority to make contracts. Proviso.

1. Fire Insurance. Against loss or damage to property and loss of use and occupancy by fire, lightning, windstorm, tornado, cyclone, hail, tempest, flood, earthquake, frost or snow, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, explosion, fire ensuing, and explosion, no fire ensuing, except explosion by steam boilers or fly-wheels; against loss or damage by water caused by the breakage or leakage of sprinklers, pumps, or other apparatus, water pipes, plumbing or their fixtures, erected for extinguishing fires, and against accidental injury to such sprinklers, pumps, other apparatus, water pipes, Fire.

plumbing or fixtures, against loss or damage to any goods or premises of the assured and loss or damage to the property of another for which the assured is liable, caused by the leakage of roofs, leaders, and spouting, or by rain and snow driven through broken and open windows and skylights, or caused by the contents of any tank, or impact of any falling tank, platform or supports erected in or upon any building; against the risks of transportation and navigation; upon automobiles, aircraft or other vehicles, whether or not operated under their own power, against loss or damage by any of the causes or risks specified in this sub-section, including also explosion, transportation, collision, liability for loss or damage by reason of bodily injury to the person, liability for damage to property resulting from owning, maintaining or using any automobiles, aircraft or other vehicles, and including burglary and theft.

Liability.

2. Liability Insurance. Against loss, expense or liability by risk or bodily injury or death by accident, disability, sickness or disease suffered by others for which the insured may be liable or have assumed liability, including workmen's compensation.

Disability.

3. Disability Insurance. Against bodily injury or death by accident, and disability by sickness.

Automobile.

4. Automobile Insurance. Against loss, expense and liability resulting from the ownership, maintenance or use of any automobile or other vehicle.

Steam boiler.

5. Steam Boiler Insurance. Against loss or liability to persons or property resulting from explosions or accidents to boilers, containers, pipes, engines, fly-wheels, elevators and machinery in connection therewith and against loss of use and occupancy caused thereby and to make inspection and issue certificates of inspection thereon.

Use and occupancy.

6. Use and Occupancy Insurance. Against loss from interruption of trade or business which may be the result of any accident or casualty.

Miscellaneous.

7. Miscellaneous Insurance. Against loss or damage by any hazard upon any risk not provided for in this section, which is not prohibited by statute or at common law from being the subject of insurance, excepting life insurance.

Am. 1921, Act 396.

Conditions governing issuance of license.

(321) SEC. 7. No such company shall issue policies or transact any business of insurance unless it shall hold a license from the commissioner authorizing the transaction of such business, which license shall not be issued until and unless the company shall comply with the following conditions:

Bona fide applications.

(a) It shall hold bona fide applications for insurance upon which it shall issue simultaneously, or it shall have in force, at least twenty policies to at least twenty members for the same kind of insurance upon not less than two hundred separate risks, each within the maximum single risk described herein.

(b) The "maximum single risk" shall not exceed twenty per cent of the admitted assets or three times the average risk or one per cent of the insurance in force, whichever is the greater, any reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk. Maximum single risk.

(c) It shall have collected a premium upon each application, which premium shall be held in cash or securities in which insurance companies are authorized to invest and shall be equal, in case of fire insurance to not less than twice the maximum single risk assumed subject to one fire nor less than ten thousand dollars, and in any other kind of insurance to not less than five times the maximum single risk assumed, and in case of workmen's compensation insurance to not less than fifty thousand dollars. Premiums collected.

(d) For the purpose of transacting employer's liability and workmen's compensation insurance the applications shall cover not less than one thousand five hundred employes, each such employe being considered a separate risk for determining the maximum single risk. Employer's liability insurance.

(322) SEC. 8. Any public or private corporation, board or association in this state or elsewhere may make applications, enter into agreements for and hold policies in any such mutual insurance company. Any officer, stockholder, trustee or local representative of any such corporation, board, association, or estate may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this state to participate as a member of any such mutual insurance company is hereby declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred. When corporations and associations become members.

(323) SEC. 9. Every member of the company shall be entitled to one vote, or to a number of votes based upon the insurance in force, the number of policies held, or the amount of premiums paid, as may be provided in the by-laws. Votes member entitled to.

(324) SEC. 10. The policies shall provide for a premium or premium deposit payable in cash and, except as herein provided, for a contingent premium at least equal to the premium or premium deposit. Such mutual company may issue a policy without a contingent premium while it has a surplus equal to the capital required of a domestic stock insurance company transacting the same kinds of insurance, and in no event shall the holder of any such policy be liable for a greater amount than the premium or premium deposit expressed in the policy. If at any time the admitted assets are less than the reserve and other liabilities, the company shall immediately collect upon policies with a contingent premium a sufficient proportionate part thereof to restore such assets, provided no member shall be liable for any part Premium or deposit. Policy without contingent premium.

of such contingent premium in excess of the amount demanded within one year after the termination of the policy. The commissioner of insurance may, by written order, direct that proceedings to restore such assets be deferred during the time fixed in such order.

Am 1921, Act 396.
As to capital required of domestic stock companies, see sections 132, 227.

Investment of assets.

(325) SEC. 11. No such company shall invest any of its assets except in accordance with the laws of this state relating to the investment of the assets of domestic stock companies transacting the same kind of insurance.

To maintain reserves separately.

(326) SEC. 12. Such company shall maintain unearned premium and other reserves separately for each kind of insurance, upon the same basis as that required of domestic stock insurance companies transacting the same kind of insurance: Provided, That any reserve for losses or claims based upon the premium income shall be computed upon the net premium income, after deducting any so-called dividend or premium returned or credited to the member.

Proviso.

Assessment to restore assets.

(327) SEC. 13. Such company not possessed of assets at least equal to the unearned premium reserve and other liabilities shall make an assessment upon its members liable to assessment to provide for such deficiency, such assessment to be against each such member in proportion to such liability as expressed in his policy: Provided, The commissioner may, by written order, relieve the company from an assessment or other proceedings to restore such assets during the time fixed in such order.

Proviso.

Director, etc., may advance money to company.

(328) SEC. 14. Any director, officer or member of any such company, or any other person, may advance to such company, any sum or sums of money necessary for the purpose of its business or to enable it to comply with any of the requirements of the law, and such moneys and such interest thereon as may have been agreed upon, not exceeding seven per cent per annum, shall not be a liability or claim against the company or any of its assets, except as herein provided, and shall be repaid only out of the surplus earnings of such company. No commission nor promotion expenses shall be paid in connection with the advance of any such money to the company and the amount of such advance shall be reported in each annual statement.

Not liability of company.

Commission not to be paid from.

Taxable premiums.

(329) SEC. 15. The taxable premiums of any mutual insurance company admitted in this state under this chapter for the purpose of taxation under any law of this state shall be the gross direct premiums received for insurance upon property or risks in this state, deducting premiums upon policies not taken and premiums returned on cancelled policies and also any so-called dividend or other return made to the policyholder other than for losses: Provided, That in case of any company receiving deposits or deposit premiums, the taxable premiums shall be the portion of such deposits or deposit premiums earned during the year.

Proviso.

(330) SEC. 16. The provisions of this chapter shall not apply to any company of this state now doing business unless such company shall be fully complying with the requirements of this chapter and shall by resolution of its board of directors duly certified to by the president and secretary and filed with and approved by the commissioner have elected to adopt the provisions of this chapter in which case such company may thereafter effect such kind or kinds of insurance as specified in its articles of association as then or thereafter amended or as may be specified in such resolution. Application of chapter.

(331) SEC. 17. Such mutual company may insert in any form of policy prescribed by the law of this state any provisions or conditions required by its plan of insurance, which are not inconsistent or in conflict with any law of this state. Such policy, in lieu of conforming to the language and form prescribed by such law, may conform thereto in substance, if such policy includes a provision or endorsement reciting that the policy shall be construed as if in the language and form prescribed by such law, and a copy of such policy and endorsement, if any, shall have been first filed with and shall not have been disapproved by the commissioner. Provisions may insert.

(332) SEC. 18. Such mutual company shall comply with the provisions of any law applicable to stock insurance companies effecting the same kind of insurance requiring that policies be countersigned and delivered through a resident agent: Provided, That this requirement shall not apply to any policy of such mutual company on which no commission shall be paid to any local agent. Countersigning and delivery. Proviso.

(333) SEC. 19. Any mutual insurance company organized outside of this state and authorized to transact the business of insurance on the mutual plan in any state, district or territory, shall be admitted and licensed to transact the kinds of insurance authorized by its charter or articles of association to the extent and with the powers and privileges specified in this chapter, when it shall be solvent under this chapter and shall have complied with the following requirements: Foreign company, when admitted to do business.

(a) Filed with the commissioner a certified copy of its charter or articles of association;

(b) Paid the commissioner a fee of twenty-five dollars;

(c) Filed with the commissioner a copy of its by-laws certified to by its secretary;

(d) Appointed the commissioner its agent for the service of process, in any action, suit or proceeding in any court of this state, which authority shall continue as long as any liability shall remain outstanding in this state;

(e) Filed a financial statement under oath, in such form as the commissioner may require, and have complied with other provisions of law applicable to the filing of papers and furnishing information by stock companies on application for authority to transact the same kind of insurance;

(f) If organized without the United States, make and

maintain the deposit required of stock insurance companies formed without the United States transacting the same kind of insurance.

Upon compliance by any such foreign company with the provisions of this section, such company shall be licensed and authorized to transact business in this state, subject to all the provisions of law relating to information to and examinations by the commissioner, annual reports, taxes and the renewal of licenses applicable to stock insurance companies transacting the same kinds of insurance, except as otherwise provided in this chapter.

Exemption.

(334) SEC. 20. Except as provided herein, or as may be hereafter expressly provided in another law of this state, no company organized or admitted to do business in this state under this chapter shall be subject to the laws governing the qualifications of insurance companies for authority to carry on insurance in this state.

Reinsurance.

(335) SEC. 21. Any mutual insurance company other than life may, by policy, treaty or other agreement, cede to or accept from any insurance company or insurer reinsurance upon the whole or any part of any risk which reinsurance shall be without contingent liability or participation or membership unless provided otherwise. No such reinsurance shall be effected with any company or insurer disapproved by written order of the commissioner filed in his office.

Added 1921, Act 396.

Schedules.

Acts repealed.

(336) SECTION 1. The following acts and all amendments thereto are hereby repealed: Act one hundred eight, session laws of eighteen hundred seventy-one; act sixty-six, public acts of nineteen hundred eleven; act two hundred ninety-two, public acts of nineteen hundred thirteen; act one hundred ninety-four, public acts of eighteen hundred eighty-three; act seventy-seven, session laws of eighteen hundred sixty-nine; act one hundred eighty-seven, public acts of nineteen hundred seven; act one hundred eighty, public acts of nineteen hundred seven; act two hundred thirty-six, public acts of nineteen hundred thirteen; act three hundred two, public acts of nineteen hundred thirteen; act one hundred eighty-three, public acts of nineteen hundred seven; act one hundred ninety-three, public acts of nineteen hundred thirteen; act one hundred seventy-nine, public acts of nineteen hundred seven; act one hundred eighty-two, public acts of nineteen hundred seven; act two hundred fifty-nine, public acts of nineteen hundred seven; act eighty-seven, public acts of eighteen hundred ninety-seven; act one hundred eighty-seven, public acts of eighteen hundred eighty-seven; act one hundred twenty-five, public acts of nineteen hundred nine; act thirty-seven, public acts of nineteen hundred fifteen; act three hundred eighteen, public acts of nineteen hundred seven; act two hundred ninety-eight, public acts of nineteen hundred seven; act one hundred seventeen, public

acts of nineteen hundred seven; act seventy-one, public acts of nineteen hundred seven; act one hundred sixty-nine, public acts of nineteen hundred thirteen; act one hundred thirty-six, public acts of eighteen hundred sixty-nine; act sixty-two, public acts of eighteen hundred ninety-five; act one hundred fifty-four, public acts of nineteen hundred five; act one hundred forty-seven, public acts of nineteen hundred fifteen; act sixty-one, public acts of nineteen hundred thirteen; act eighty-six, public acts of nineteen hundred fifteen; act one hundred eleven, public acts of nineteen hundred eleven; act two hundred thirteen, public acts of nineteen hundred eleven; act thirty-four, session laws of eighteen hundred seventy-three; act one hundred forty-nine, session laws of eighteen hundred seventy-three; act seventy-one, public acts of eighteen hundred seventy-nine; act two hundred eighty-five, public acts of eighteen hundred eighty-seven; act two hundred forty, public acts of eighteen hundred ninety-nine; act one hundred forty-eight, public acts of eighteen hundred eighty-one; act one hundred ninety-nine, public acts of eighteen hundred ninety-five; act one hundred fifty-three, public acts of eighteen hundred ninety-five; act one hundred sixty-seven, public acts of eighteen hundred ninety-seven; act two hundred ninety-three, public acts of nineteen hundred thirteen; act one hundred thirty-six, public acts of nineteen hundred fifteen; act two hundred seventy-three, public acts of nineteen hundred thirteen; act two hundred eighty-five, public acts of nineteen hundred thirteen; act eighty-two, session laws of eighteen hundred seventy-three; act two hundred sixty-two, public acts of eighteen hundred ninety-five; act one hundred forty-eight, public acts of nineteen hundred fifteen; act one hundred fifty-seven, public acts of eighteen hundred eighty-one; act seventy-eight, public acts of eighteen hundred eighty-three; act one hundred seventy-six, public acts of nineteen hundred seven; act two, public acts of nineteen hundred nine; act thirty-six, public acts of eighteen hundred eighty-three; act one hundred twenty-two, public acts of nineteen hundred one; act two hundred fifteen, public acts of nineteen hundred eleven; act one hundred thirty-four, public acts of eighteen hundred ninety-five; act two hundred five, public acts of nineteen hundred three; act one hundred eleven, public acts of eighteen hundred eighty-three; act thirty-six, public acts of eighteen hundred eighty-one; act six, public acts of eighteen hundred eighty-five; act sixteen, public acts of nineteen hundred eleven; act seventy-three, public acts of eighteen hundred eighty-seven; act two hundred sixty-nine, public acts of eighteen hundred eighty-nine; act two hundred thirty-seven, public acts of eighteen hundred eighty-one; act twelve, public acts of nineteen hundred twelve, first extra session; act one hundred eighty-two, public acts of nineteen hundred fifteen; act one hundred seventy-seven, public acts of nineteen hundred fifteen; act one hundred fifty-six, public acts of eighteen hundred ninety-seven; act

three hundred seven, public acts of nineteen hundred seven; act two hundred sixty-four, public acts of nineteen hundred thirteen; act thirty-eight, public acts of nineteen hundred fifteen; act seventy-six, public acts of nineteen hundred fifteen; act one hundred ninety-nine, public acts of nineteen hundred eleven; act one hundred ninety-nine, public acts of nineteen hundred seven; act one hundred thirty-three, public acts of nineteen hundred nine; act eighty-four, public acts of nineteen hundred one; act one hundred twenty-four, public acts of nineteen hundred fifteen; act eighty-seven, public acts of eighteen hundred ninety-nine; act two hundred thirty-three, session laws of eighteen hundred forty-eight; act one hundred thirty-three, public acts of nineteen hundred eleven; act two hundred fifty, public acts of nineteen hundred eleven; act two hundred seventy-eight, public acts of nineteen hundred thirteen; act one hundred seventy-four, public acts of eighteen hundred eighty-five; act one hundred fifty-five, session laws of eighteen hundred seventy-three; act two hundred sixteen, public acts of nineteen hundred eleven; act two hundred fifty-six, public acts of eighteen hundred ninety-nine; act one hundred twenty-seven, public acts of nineteen hundred eleven; act two hundred eleven, public acts of nineteen hundred thirteen; act one hundred twenty-nine, public acts of nineteen hundred eleven; act one hundred thirty-two, public acts of nineteen hundred eleven; act ninety-five, session laws of eighteen hundred seventy-one.

Act repealed Jan. 1, 1918.

(337) SEC. 2. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed. Act number two hundred seventy-seven, public acts of nineteen hundred five, as amended, relating to standard fire insurance policy, is hereby repealed from and after January one, nineteen hundred eighteen.

Companies previously incorporated.

(338) SEC. 3. Any insurance company, association, society, partnership, or reciprocal heretofore formed or incorporated under any insurance law of this state, whose act of incorporation is repealed by this act, shall continue to have a corporate existence and shall have all the rights, privileges, immunities and limitations, obtained under such acts of incorporation, as evidenced by their articles of association or articles of agreement, and their by-laws, made pursuant to such acts of incorporation, as existing at the time this act takes effect: Provided, however, That all amendments to such articles of incorporation, and by-laws shall be made hereafter in compliance with the provisions of this act, and all such companies shall be otherwise governed by the provisions of this act. All reincorporations of such companies, for the purpose of extending their corporate existence or for any other purpose shall be made only in compliance with this act, and any company, association, society, partnership, or reciprocal heretofore incorporated under any insurance law of this state may reincorporate under this act.

Proviso, amendments to comply with act.

INDEPENDENT STATUTES RELATING TO INSURANCE COMPANIES.

SURETY COMPANY BONDS AUTHORIZED.

An Act relative to bonds and other obligations, with surety or sureties, and the acceptance as surety thereon of companies qualified to act as such, and the release of such surety, and the safe depositing of assets for which such surety may be liable, and to the charging by fiduciaries of the expense of procuring sureties, and repealing all laws in conflict therewith.

[Act 266, P. A. 1895.]

The People of the State of Michigan enact:

(339) § 9219. SECTION 1. Whenever any bond, undertaking, recognizance or other obligation is by the law of the state or by the charter, ordinances, rules or regulations of any municipality, board, body, organization or public officer, or in any judicial or other proceeding required or permitted to be made, given, tendered or filed with the surety or sureties and whenever the performance of any act, duty or obligation, or refraining from any act is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty, may be executed by a surety company, qualified to act as surety or guarantor as hereinafter provided, and such execution by such company of such bond, undertaking, recognizance, obligation or guaranty shall be in all respects a full and complete compliance with every requirement of every law, charter, ordinance, rule, regulation or order, that such bond, undertaking, obligation or recognizance or guaranty shall be executed by one surety, or by one or more sureties, or that such sureties shall be residents or householders or freeholders or either or both, or possess any other qualifications: Provided, That such sureties companies shall be accepted as surety on any recognizance for the appearance of persons charged with crime: Provided further, That where any bond is required for the sale of liquors under the laws of this state, such bonds shall not be executed by any surety company as herein provided, except by and with the consent and approval of the township board, or of the board of trustees or of the common council of any village or city, as the case may be, within which said bond is required to be filed: And provided further, That the bond of such surety company shall not be accepted by said township board, common council or a board of trustees, unless such surety company shall be a corporation of the state of Michigan, organized and existing under the laws of the state of Michigan, and with a capital stock of not less than five hundred thousand dollars: Provided, That whenever a majority

Authorizing surety companies to go on bonds.

Proviso, bail bonds.

Further proviso, liquor bonds.

Further proviso, a Michigan corporation.

Proviso.

of the qualified electors of any township, village or city, equal to a majority of the votes cast for governor at the last general election, shall file a petition with the township board of any township, board of trustees, council or common council of any village or city, protesting against the acceptance of the bonds offered by any individual, firm or corporation proposing to engage in the sale of intoxicating liquors at retail, it shall be unlawful for such township board of such township, board of trustees, council or common council of any village or city to accept such bonds: And provided further, That such bonding company or companies shall not charge more than ten dollars per thousand dollars for going on such liquor bond or bonds: Provided further, That suits may be commenced in the circuit court in any county where the plaintiff resides, by declaration or writ, and service shall be made in such cases only upon the commissioner of insurance in like manner and with like effect as is provided for the service of process upon societies, orders or associations organized under the laws of any other state, province or territory and doing business in this state, and not having its principal office within this state and, for the purpose of service of process as herein provided, such surety company shall appoint in writing the commissioner of insurance, or his successor in office, to be its true and lawful attorney.

Further proviso.

Further proviso, service on commissioner.

Am. 1923, Act 229.

As to where suits may be brought, see compiler's section 367; as to service of process, see sections 369 and 370.

This act is complete in itself and constitutional.—Steel v. Aud. Gen., 111 / 381. The title of Act 321, P. A. 1907, was sufficient to comply with the constitutional requirement that the object be expressed in the title.—Taylor v. Davarn, 191 / 243. It does not authorize the taxation as costs of a charge paid to a surety company for becoming security on an appeal bond, where the party does not occupy the relation of fiduciary.—Somerville v. Wabash Railroad Co., 111 / 51. This section was evidently designed to permit the substitution of one surety, in case it should be a corporation organized under this act, in place of two, required by other provisions of law; and where no act of acceptance is required, but the giving of such bond is required by law, such bond, as executed, is declared sufficient.—Schmitt v. Clinton Com. Council, 111 / 102. A bond for indemnity against loss through the default of an employe makes the surety an insurer in all essential particulars and subject to the same rules as fire and life companies.—Crystal Ice Co. v. United Surety Co., 159 / 102. Service of process on the commissioner of insurance is insufficient to confer jurisdiction over a foreign insurance company, without evidence of the due appointment in writing of the insurance commissioner to receive service of process.—Wells v. U. S. Fidelity & Guaranty Co., 160 / 213. In garnishment proceedings against a Michigan bonding and surety company, the insurance commissioner having been duly appointed by said company to receive service of process, service upon the secretary of the company instead of upon the insurance commissioner was void.—Drueke-Lynch Co. v. Mich. Bonding & Surety Co., 204 / 180.

A dispute as to the receipt of a check by a township treasurer from his predecessor presented a question for the jury.—National Surety Co. v. Grant, 177 / 348. A contract of indemnity is to be interpreted so as to cover any loss or liability which the parties reasonably appear to have intended it to include, but not such as are expressly excluded or of such a character that it can reasonably be inferred that they were not intended to be within the agreement.—Fidelity & Deposit Co. of Maryland v. Hibbler, 177 / 490. Plaintiff brought a civil-damage action in Ionia county where she resided, and joined three saloon keepers, residents of other counties, as parties defendant. Held, that the action was properly commenced in the county of plaintiff's residence.—Taylor v. Davarn, 191 / 243.

When it shall be lawful to accept one surety.

(340) § 9220. SEC. 2. In any cause, matter or proceeding where, by the laws of this state, the giving of any bond is required or permitted, and more than one surety is required, it shall be lawful for the court, officer or person who is authorized or required by law to approve and accept such bond, to accept and approve a bond with but one surety, pro-

vided the surety thereto is a corporation qualified to act as surety or guarantor as hereinafter provided.

The provisions of this section are permissive merely and do not prohibit a village council from refusing to approve a liquor bond, where they have no knowledge of the solvency of the surety.—Schmitt v. Clinton Com. Council, 111 / 102.

(341) § 9221. SEC. 3. That such company, to be qualified to so act as surety or guarantor, must be authorized under the laws of the state where incorporated and under its charter to guarantee the fidelity of persons holding places of public or private trust, and to guarantee the performance of contracts other than insurance policies, and to execute bonds and undertakings required or permitted in actions or proceedings or by law allowed; must comply with the requirements of the laws of this state applicable to such company, in doing business therein; must have good available assets in excess of its liabilities, which said liabilities, however, shall for the purposes of this act, be taken to be its capital stock, its outstanding debts, and a premium reserve at the rate of fifty per centum of the annual premium on all outstanding obligations in force; must file with the insurance commissioner a certified copy of its charter or act of incorporation, a written application to be authorized to do business under this act and a statement signed and sworn to by at least two of its officers, stating the amount of its paid up cash capital, particularizing each item of investment, the amount of premium on existing bonds upon which it is surety, the amount of liability for unearned portion of such premiums, estimated at the rate of fifty per centum of the annual premium on all outstanding obligations; stating also the amount of its outstanding debts of all kinds, and such further statement similarly verified as may be by the laws of this state required of such company in transacting business therein. And if such company be organized under the laws of this state, it must have an unimpaired, safely invested capital of at least two hundred thousand dollars; must have at least one hundred thousand dollars invested in securities created under or by the laws of the United States, or of this state, the value of which shall be at or above par and shall be deposited with or held by the state treasurer of this state in trust for the benefit of the holders of the obligations of such company; and if such company be organized under the laws of any other state than this state, it must have a fully paid up and safely invested and unimpaired capital of at least two hundred and fifty thousand dollars, and have at least two hundred thousand dollars in good, dividend paying or interest bearing stock or securities created under or by virtue of the laws of the United States or of the state where it is incorporated, or of good, solvent, dividend paying corporations, or in first mortgages on unincumbered real estate worth at least double the amount loaned thereon, which said stocks, securities or mortgages shall be at or above par in value and be deposited with or held by the state officer or

Qualifications required of companies.

Certified copy of charter to be filed with insurance commissioner.

Domestic companies, capital, how invested.

Foreign company requirements.

officers of not more than two states wherein the company is authorized to do business in trust, for the benefit of the holders of the obligations of such company; must appoint an attorney in this state on whom process of law can be served, and file in the office of the insurance commissioner a written statement duly signed and sealed, certifying such appointment and which shall continue until another attorney is substituted.

Attorney for service of process.

Held sufficiently entitled to indicate the purpose of the statute, which is not to change the jurisdiction of the courts, but to impose conditions upon foreign surety companies doing business in Michigan.—People v. Fidelity & Deposit Co., 163 / 95.

(342) § 9222. SEC. 4. That upon production of proof to the insurance commissioner by such company that it possesses the qualifications by this act required and has complied therewith, he shall issue to such company and such of its agents in this state, his certificate that such company is for the ensuing year authorized to become and be accepted as sole surety on all bonds, undertakings and obligations, required or permitted by law, or by the charter, ordinances, rules and regulations of any municipality, board, body, organization or public officer, which said certificate shall be conclusive proof of the solvency and credit of such company for all purposes and of its right to be so accepted as such sole surety and its sufficiency as such.

Insurance commissioner to issue certificates.

The provision that the certificate shall be conclusive proof of solvency and credit does not preclude the proper board or officer from exercising discretion. —Schmitt v. Clinton Com. Council, 111 / 102. The filing of a bond by an assignee for the benefit of creditors signed by a foreign corporation as surety without proof of authority of the company to become surety on the bond will not qualify the assignee to sue for assets of his assignor.—McCuaig v. City Sav. Bk., 111 / 356.

(343) § 9223. SEC. 5. That such company shall also annually, during the month of January, file with the insurance commissioner a statement similar to that hereinbefore in section two of this act provided for, made up to the thirty-first day of December next preceding, together with a certificate from the officer with whom the deposit in section two of this act specified is required to be made, describing such securities so deposited and the manner in which they are held by him, and stating that he is satisfied that such securities are fully worth the amount so required by said section two of this act to be deposited and also furnish said insurance commissioner with such further statement as may be by the laws of this state required of such company; and upon the filing of such annual statement and the proof of such facts, said insurance commissioner shall thereafter issue to such company and each of its agents in this state his certificate that such company is for the ensuing year authorized as in section three of this act provided, which said certificate shall be proof as in such section specified.

Company to file statement annually.

The references to section 2 in this section are undoubtedly in error; section 3 was evidently intended.

When lawful to require deposits to be made.

(344) § 9224. SEC. 6. That it shall be lawful for any party of whom a bond or undertaking is required, and whose surety thereon is such a company, to agree with such surety, for the deposit of any and all moneys and other depositable assets for which such surety is or may be held responsible, with a trust company, safe deposit company or bank, authorized by law to transact business as such in this state, if such deposit is otherwise proper, in such manner as to prevent the withdrawal of such moneys and assets or any part thereof, except with the written consent of such surety, or an order of the court made on such notice to them as such court may direct.

This section has no application to the state treasurer's bond. That bond falls within the exception of this section.—Steel v. Aud. Gen., 111 / 381.

When sureties may be relieved from liability.

(345) § 9225. SEC. 7. Such surety or the representative of any such surety upon the bond of any trustee, conservator, guardian, assignee, receiver, executor or administrator or other fiduciary may apply by petition to the court wherein such bond is filed or which may have jurisdiction of such trustee, conservator, guardian, assignee, receiver, executor or administrator, or to a judge of said court praying to be relieved from such liability as such surety, for the acts or omissions of the trustee, conservator, guardians, assignee, receiver, executor or administrator or other fiduciary which may occur after the date of the order relieving such surety, to be granted as herein provided for, and to require such trustee, conservator, guardian, assignee, receiver, executor or administrator, or other fiduciary, to show cause why he should not account, and such surety be relieved from such future liability as aforesaid, and such principal be required to give a new bond, and thereupon, upon the filing of such petition the court in term time, or a judge thereof in vacation, shall issue an order to show cause, returnable at such time and place and to be served in such manner as such court or judge may direct, and may restrain such trustee, conservator, guardian, assignee, receiver, executor or administrator or other fiduciary from acting, except in such manner as it may direct to preserve the trust estate; and upon the return of such order to show cause, if the principal in the bond account in due form of law and file a new bond, duly approved, then such court or judge may make an order releasing such surety, filing the petition as aforesaid, from liability upon the bond for any subsequent acts or defaults of such principal, and in default of such principal thus accounting and filing such new bond, such court or judge must make an order, directing such trustee, conservator, guardian, assignee, receiver, executor or administrator or other fiduciary, to account in due form of law, and that if the trust fund or estate shall be satisfactorily accounted for and delivered or properly secured, such surety shall be discharged from any and all further liability as such, for the subsequent acts or omissions of the trustee, conservator, guardian, assignee,

receiver, executor or administrator, or other fiduciary, after the date of such surety being so relieved and discharged, and discharging such trustee, conservator, assignee, receiver, executor or administrator, or other fiduciary.

May include as lawful expenses.

(346) § 9226. SEC. 8. That any receiver, assignee, guardian, conservator, trustee, executor or administrator, or other fiduciary, required by law or the order of any court or judge to give a bond as such, may include, as a part of the lawful expense of executing his trust, such reasonable sum paid a company authorized under this act so to do, for becoming his surety on such bond, as may be allowed by the court in which he is required to account, or a judge thereof, not exceeding, however, one per centum per annum of the amount of such bond; and in all actions or proceedings the party entitled to recover costs or disbursements may include therein such reasonable sum as may have been paid such company for executing or guaranteeing any bond, undertaking, recognizance or other obligation therein.

This act does not permit the recovery as taxable costs of the cost of a surety bond where the party does not occupy the relation of a fiduciary.—Somerville v. Wabash R. R. Co., 111 / 51.

No company signing bond shall deny its corporate power.

(347) § 9227. SEC. 9. That no company, having signed such a bond, undertaking or obligation, shall be permitted to deny its corporate power to execute such instrument or incur such liability in any proceedings to enforce liability thereunder.

Sec. 10 repeals conflicting acts.

Annual report.

(348) § 9229. SEC. 11. Every such corporation shall, as a condition precedent to the renewal of an annual certificate by the commissioner of insurance, make and file in the office of the state treasurer annually, in the month of January of each year, on oath or affirmation a statement of the number of guarantees, bonds, covenants or agreements, which it has signed and issued, and the gross amount of premiums received or secured thereon during the year then terminated,

Specific tax.

and shall pay into the state treasury a specific tax of two per cent on the gross amount of all premiums received in money or securities in this state during the said year, and in ascertaining the gross amount of all premiums received or secured, the return premiums on cancelled guarantees, bonds, covenants or agreements shall be deducted, and shall not be included in the term "gross amount of premiums," which said specific tax may be recovered from any corporation neglecting or refusing to pay the same, in any court at the suit of this state, and it shall be the duty of the state treasurer to give his receipt for all moneys paid into the state treasury

Proviso, return, etc., premiums.

under the provisions of this act: Provided, however, That when, by the statutes or rulings of the insurance department of any state, a tax is laid or levied upon the amount of the gross receipts of premiums received, upon any company organized under the laws of this state, and doing business in such state, which amount of gross receipts shall include re-

turn premiums, then the corporations from that state doing business in this state under this act, shall be taxed upon the amount of gross receipts for premiums, without excluding the cancellation or return premiums: Provided further, That all companies transacting any reinsurance business in any manner shall pay the above tax upon the original premium received by the reinsured company on that portion of the risk reinsured: Provided further, Said reinsuring company may deduct from such premium that portion of such premiums upon which the reinsured company has paid the above two per cent tax.

Further proviso.

Further proviso, deductions.

WHOLE FAMILY PROTECTION.

An Act to provide whole family protection for members of fraternal beneficiary societies, permitting the payment of death or annuity benefits upon the lives of children between the ages of two and eighteen years at next birthday, for whose support and maintenance a member of such society is responsible.

[Act 160, P. A. 1917.]

The People of the State of Michigan enact:

(349) SECTION 1. Any fraternal benefit society authorized to do business in this state and operating on the lodge plan, may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children between the ages of two and eighteen years at next birthday, for whose support and maintenance a member of such society is responsible. Any such society may at its option, organize and operate branches for such children, and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the society. The total benefits payable as above provided shall in no case exceed the following amounts at ages at next birthday at time of death, respectively, as follows: Two, thirty-four dollars; three, forty dollars; four forty-eight dollars; five, fifty-eight dollars; six, one hundred forty dollars; seven, one hundred sixty-eight dollars; eight, two hundred dollars; nine, two hundred forty dollars; ten, three hundred dollars; eleven, three hundred eighty dollars; twelve, four hundred sixty dollars; thirteen to fifteen, five hundred twenty dollars; and sixteen to eighteen years, where not otherwise authorized by law, six hundred dollars.

Benefits upon lives of children.

Limited.

(350) SEC. 2. No benefit certificate as to any child shall take effect until after medical examination or inspection by a licensed medical practitioner, in accordance with the laws of the society, nor shall any such benefit certificate be issued unless the society shall simultaneously put in force

Conditions precedent to issuance of certificate.

at least five hundred such certificates, on each of which at least one assessment has been paid, nor where the number of lives represented by such certificates falls below five hundred. The death benefit contributions to be made upon such certificate shall be based upon the Standard Industrial Mortality Table or the English Life Table number six, and a rate of interest not greater than four per cent per annum, or upon a higher standard: Provided, That contributions may be waived or returns may be made from any surplus held in excess of reserve and other liabilities, as provided in the by-laws: And provided further, That extra contributions shall be made if the reserves hereafter provided for become impaired.

Death benefit contributions, how based.

Proviso.

Further proviso.

Reserve required.

(351) SEC. 3. Any society entering into such insurance agreements shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the society for computing contributions, as provided in section two, and the funds representing the benefit contributions and all accretions thereon shall be kept as separate and distinct funds, independent of the other funds of the society, and shall not be liable for nor used for the payment of the debts and obligations of the society other than the benefits herein authorized: Provided, That a society may provide that when a child reaches the minimum age for initiation into membership in such society, any benefit certificate issued hereunder may be surrendered for cancellation and exchange for any other form of certificate issued by the society: Provided, That such surrender will not reduce the number of lives insured in the branch below five hundred, and upon the issuance of such new certificate any reserve upon the original certificate herein provided for shall be transferred to the credit of the new certificate. Neither the person who originally made application for benefits on account of such child, nor the beneficiary named in such original certificate, nor the person who paid the contributions, shall have any vested right in such new certificate, the free nomination of a beneficiary under the new certificate being left to the child so admitted to benefit membership.

Proviso, surrender, etc., of certificates.

Proviso, reduction.

Nomination of beneficiary.

(352) SEC. 4. An entirely separate financial statement of the business transactions and of assets and liabilities arising therefrom shall be made in its annual report to the insurance commissioner by any society availing itself of the provisions hereof. The separation of assets, funds and liabilities required hereby shall not be terminated, rescinded or modified, nor shall the funds be diverted for any use other than as specified in section three, as long as any certificates issued hereunder remain in force, and this requirement shall be recognized and enforced in any liquidation, reinsurance, merger or other change in the condition of the status of the society.

Separate financial statement.

(353) SEC. 5. Any society shall have the right to provide in its laws and the certificate issued hereunder for specified payments on account of the expense of general fund,

General fund expense.

which payments shall or shall not be mingled with the general fund of the society as its constitution and by-laws may provide.

(354) SEC. 6. In the event of the termination of membership in the society by the person responsible for the support of any child, on whose account a certificate may have been issued, as provided herein, the certificate may be continued for the benefit of the estate of the child, provided the contributions are continued, or for the benefit of any other person responsible for the support and maintenance of such child, who shall assume the payment of the required contributions. Continuation of certificate.

LIMIT OF SINGLE HAZARD OF MUTUAL FIRE, ETC., COMPANIES.

An Act to prohibit any mutual fire, cyclone, automobile or hailstorm insurance company doing an insurance business in Michigan taking or assuming a greater risk or liability on a single hazard than one-fifth of one per centum of the total insurance in force in said company unless the excess insurance or liability over and above said one-fifth of one per centum be at once reinsured in some other insurance or reinsurance company doing business in and under the laws of the state; authorizing and making it legal for any mutual fire, cyclone, automobile or hailstorm insurance company organized under the laws of and doing business in the state to reinsure with and receive reinsurance from any other company authorized to do an insurance business in the state on any and all property situate within the state; defining what shall constitute a single hazard; fixing a penalty for the violation of this act; and amending all acts or parts of acts in conflict herewith.

[Act 388, P. A. 1921.]

The People of the State of Michigan enact:

(355) SECTION 1. No mutual fire, cyclone, automobile or hail-storm insurance company, organized under the laws of or doing business in this state, shall carry an insurance or assume a liability on any single hazard within the state amounting to more than one-fifth of one per centum of the total amount of insurance carried and in force in such company, unless the excess insurance over and above an amount equal to one-fifth of one per centum of the total insurance in force be reinsured in some other insurance or reinsuring company doing business in the state. Limit of insurance company may assume.

See secs. 267-89.

(356) SEC. 2. Any mutual fire, cyclone, automobile or hailstorm insurance company organized under the laws of and doing business in the state may reinsure any of its risks or any part thereof in, and receive like reinsurance from, any other mutual company doing business in the state. Reinsurance from other mutual company.

Single hazard defined.

(357) SEC. 3. A single hazard or risk within the meaning of this act shall be defined as any building and its contents or buildings and contents in such close proximity that the burning of one would necessitate the burning of or damage to the other.

Misdemeanor.

(358) SEC. 4. Any violation of this act by any such company or the officer of any such company shall be a misdemeanor and punishable by a fine not to exceed one hundred dollars for each offense.

Penalty.

Sec. 5 repeals contravening acts.

An Act to provide fire protection for townships; to authorize the purchase of fire extinguishing apparatus and equipment and the maintenance and operation thereof.

[Act 28, P. A. 1923.]

The People of the State of Michigan enact:

Method of authorization.

(359) SECTION 1. Hereafter any township, at the annual meeting thereof, may by a vote of two-thirds of those voting thereon, authorize and vote a sum not exceeding four thousand dollars, for the purpose of providing fire protection for such township by the purchase of fire extinguishing apparatus and equipment and the housing thereof, and may by a majority vote at any annual meeting vote a further sum, not exceeding six hundred dollars, for any one year, for the maintenance of such fire extinguishing apparatus and equipment and for the purpose of paying for the care and operation thereof.

Maintenance.

Fire department.

(360) SEC. 2. The township board of any township where appropriations have been made as herein provided, may organize a fire department within said township, whose duty it shall be to take charge of and operate said apparatus and equipment for a compensation and under regulations to be established by said board, or the township board of any township having within its boundaries an incorporated village or city which maintains a fire department therein, may contract with the common council or other representative body of the city or village for the care, maintenance and operation of said apparatus and equipment by the fire department of such village or city, upon such terms as may be agreed upon.

Petition.

(361) SEC. 3. No township shall appropriate money for the purchase and housing of such fire extinguishing apparatus and equipment except upon the petition of at least one-third of the resident taxpayers thereof, which petition shall be filed with the township board at least thirty days before the time fixed for the annual township election and it shall be the duty of the township clerk to include the proposition to be voted upon in the notice of annual election, and to prepare the ballots therefor.

APPROVAL OF SPRINKLER HEADS.

An Act to provide for the approval of sprinkler heads, air valves and other devices; to create a commission for such purpose, and to define the powers and duties thereof; to prevent discrimination by insurance companies against insurers of buildings equipped with the approved type of sprinkler heads, air valves or other devices, and to provide penalties for the violation hereof.

[Act 8, (1st ex. sess.), P. A. 1921.]

The People of the State of Michigan enact:

Commission created, who to compose, etc.

(362) SECTION 1. A commission is hereby created for the approval of sprinkler heads, air valves and other devices to be used within this state, which commission shall be composed of the state insurance commissioner, the dean of the engineering department of the university of Michigan and the dean of the engineering department of the Michigan agricultural college. It shall be the duty of said commission to hold meetings at such times and places as a majority of the commission may direct, and to examine and test makes or types of sprinkler heads, air valves, and any other device or instruments, containers, apparatus or parts of same to be used for the extinguishment of or prevention of fires, submitted to it for approval.

Quorum.

(363) SEC. 2. Any two members of the said commission shall constitute a quorum for the transaction of business. Said commission may adopt rules and regulations governing its proceedings, and shall cause proper notice to be given of the time and place of meetings held thereby. Members of the commission shall be entitled to their expenses incurred while traveling in the performance of the duties hereby imposed. Such expenses shall be paid out of the state treasury in the same manner as are the expenses of other state officers and employes.

Sprinkler heads, etc., how listed.

(364) SEC. 3. Any make or type of sprinkler head, air valve or any other device or instrument submitted to the said commission, and approved thereby, for the prevention of or extinguishing of fire, shall be properly listed in the office of the commissioner of insurance, and shall be by the said commission certified as a "standard sprinkler head," "standard air value," or as a standard device or instrument for the extinguishment of or prevention of fire. Any person falsely representing or pretending that any type or make of sprinkler head, air valve or any other device or instrument has been approved by the said commission shall be deemed to be guilty of a misdemeanor and on conviction thereof shall be liable to imprisonment in the county jail for not more than six months, or to a fine of not more than three hundred dollars, or to both such fine and imprisonment, in the discretion of the court.

Submission fee.

(365) SEC. 4. Any person, firm, or corporation submitting a sprinkler head, air valve or any other device or instrument to the commission for the approval thereof shall pay, at

the time of such submission, a fee of one hundred dollars, which fee shall be at once deposited by the commission in the state treasury. In case the make or type of sprinkler head or other articles mentioned in this act so submitted is approved by the commission, a bond in the penal sum of ten thousand dollars shall be executed to the people of the state of Michigan with such surety or sureties as may be approved by the insurance commissioner, conditioned that all sprinkler heads or other articles manufactured or sold within the state shall be of the same standard or quality as is the sample submitted for examination and testing. In the event that any sprinkler head or other article mentioned in this act of such type or make manufactured or sold by the person, firm or corporation executing such bond, shall be unequal to the standard of the sample, any person or persons injured thereby may bring action in any court of competent jurisdiction, on said bond, to recover any and all damages that may have been sustained.

When approved.

When unequal to standard of sample.

Unlawful discrimination, what deemed.

(366) SEC. 5. Any insurance company that shall grant any preferential rate of insurance to any owner or insurer of a building equipped with any specific type of sprinkler head, air valve or any other device or instrument because of such equipment, and who shall refuse to grant the same rate to any owner or insurer of any building equipped with any type or make of standard sprinkler head, air valve or any other device or instrument, approved by the said commission, is hereby declared to be guilty of unlawful discrimination. Any insurance company so offending shall be liable to a penalty of one thousand dollars for each offense.

Penalty.

LEGAL PROCEEDINGS.

ACTIONS.

[Extract from sec. 1, chap. x, Act 314, P. A. 1915.]

Actions, where commenced and tried.

(367) § 12340. SECTION 1. Actions shall be commenced and tried in the proper county as follows:

* * * * * *

4. Suits may be commenced against foreign and domestic insurance companies, fraternal co-operative and mutual benefit associations, having for their object insurance against fire, death, sickness, accident, or any form or risk whatever; and against foreign and domestic surety and bonding companies, in the circuit court of any county in this state, in which the plaintiff resides, and in which such company is authorized to issue policies, or take risks.

SERVICE OF PROCESS.

[Extracts from chap. xiii, Act 314, P. A. 1915.]

Service upon corporation, etc.

(368) § 12432. SEC. 29. Process issued from any court of record against a corporation, partnership association or

unincorporated voluntary association, may be served upon any officer, director, trustee or agent thereof, or by leaving same during regular office hours at the office of such corporation, partnership association or unincorporated voluntary association, with any person in charge thereof. Except as otherwise provided in this act, all general or special laws relating to the service of process upon corporations are hereby repealed.

Service upon insurance companies, etc.

(369) § 12436. SEC. 33. In all cases of domestic or foreign insurance companies, fraternal, co-operative and mutual beneficiary societies, orders or associations, and in all other cases where it is required by law that any company, society, order or association, shall appoint in writing the commissioner of insurance, the secretary of state, or any other officer of this state, as their agent or attorney, upon whom all legal process in any action or proceeding may be served, if such appointment shall have been made, service of process shall be made upon such officer. In cases against fire and marine insurance companies service of process may be made in the manner herein provided or in any other manner permitted by law.

Service in duplicate.

(370) § 12437. SEC. 34. In all cases where process is served upon the commissioner of insurance, secretary of state, or any other state officer as such agent, such service shall be made in duplicate upon such officer, or his deputy, or in their absence, upon the person in charge of his office; and one of the duplicate copies so served shall forthwith be forwarded by registered mail, postage prepaid, and directed to the secretary or corresponding officer of the defendant.

LEVY OF ATTACHMENT OR EXECUTION UPON CORPORATE SHARES.

[Extracts from chap. xxiii, Act 314, P. A. 1915.]

How taken.

(371) § 12873. SEC. 58. Any share or interest of any stockholder in any corporation, that is or may be incorporated under the authority of any law of this state, unless expressly exempted by law, may be attached or taken in execution and sold in the manner hereinafter provided.

Certificate of shares to be furnished.

(372) § 12874. SEC. 59. The officer of any company who is appointed to keep a record or account of the shares or interest of the stockholders therein or in whose office there is required to be kept any list or statement showing the stockholders of such corporation and the number of shares held by each or their interest therein, shall upon exhibiting to him the attachment or execution be bound to give the officer a certificate of the number of shares or amount of the interest held by the defendant named in such attachment or the judgment debtor.

Copy of execution, etc., to be left with clerk, etc.

(373) § 12875. SEC. 60. Whenever any corporate shares of stock shall be attached or taken in execution, the officer shall leave a copy of the attachment or execution certified by

him with the clerk, treasurer, cashier, or agent of the corporation if there be any such officer, and if not then with any officer or person who has, at the time, the custody of the books and papers of the corporation within this state. No attachment or levy upon shares of stock for which a certificate is outstanding, shall be valid until such certificate be actually seized by the officer making the attachment or levy, or be surrendered to the corporation which issued it, or its transfer by the holder be enjoined, or restrained.

Restraint of transfer of stock.

(374) § 12876. SEC. 61. Any court of law or equity from which any attachment or execution may have issued, shall have full power and authority upon motion, and without notice, to make an order restraining the transfer of any such shares of stock, and upon the service of a certified copy of such order, the same shall be as effectual for all purposes as though it were an injunction issued by a court of equity. This section shall not be construed to in any way abrogate or limit the jurisdiction of courts of equity as heretofore existing.

Purchaser of shares entitled to certificate.

(375) § 12877. SEC. 62. A copy of the execution and the return thereon, certified by the officer executing the same, shall, within fourteen days after the sale be left with the officer of the company whose duty it may be to keep a record of the transfer of shares; and the purchaser shall thereupon be entitled to a certificate or certificates of the shares bought by him, upon paying the fees therefor, and for recording the transfer.

Dividends.

(376) § 12878. SEC. 63. If the shares or interest of the judgment debtor shall have been attached in the suit in which the execution issued, the purchaser shall be entitled to all the dividends which shall have accrued after the levying of the attachment.

GARNISHMENT OF CORPORATIONS.

[Extract from chap xxviii, Act 314, P. A. 1915.]

Provisions governing proceedings.

(377) § 13167. SEC. 46. All corporations of whatsoever nature, the state of Michigan and every county therein, may be served and proceeded against as garnishees in the same manner and with like effect as individuals under the provisions of this chapter and the rules of law relative to proceedings against corporations: Provided, That when a municipal corporation, the state of Michigan, or any county therein, is proceeded against as provided for in this chapter, judgment shall have been obtained in a court of competent jurisdiction by the plaintiff against the principal defendant before garnishment proceedings shall be commenced against such municipal corporation, the state of Michigan or any county therein: Provided further, That in all cases of foreign corporations, if the officer or agent served shall neglect or refuse to file disclosure to said writ, as hereinbefore in this chapter provided, the default of said foreign corporation may be entered as in other cases, and upon entry of judgment

Proviso, municipal corporations.

Proviso, foreign corporations; neglect, etc., to file disclosure.

against the principal defendant, judgment may be entered in said garnishee proceedings against said foreign corporation for the amount thereof, including costs: Provided further, That no judgment on default shall be rendered against said foreign corporation until the expiration of sixty days after the entry of judgment against the principal defendant, and the plaintiff shall within twenty days after judgment against the principal defendant, serve notice by mail on the foreign corporation at its home office that judgment had been obtained against the principal defendant; and that at the expiration of sixty days from the date of said judgment application would be made for judgment against it, as hereinbefore provided. Said notice shall be substantially as follows:

Judgment on default.

Proviso, notice by plaintiff.

Form of notice.

In the circuit court for the county of.....
....., plaintiff,

vs.

....., defendant.

....., garnishee defendant.

To said garnishee defendant:

Take notice, that on the ..... day of .....
Anno Domini ..... judgment for the sum of
..... dollars including costs, was entered in said court against the above named principal defendant, and at the expiration of sixty days from the entry of said judgment, application will be made to said court for the entry of judgment against you as garnishee defendant in said cause.

Yours, etc.,

.....,
Plaintiff's Attorney.

Am. 1919, Act 233.

[Extract from chap. lxxvi, Act 314, P. A. 1915.]

(378) § 14390. SEC. 30. All corporations of whatsoever nature, whether foreign, domestic, municipal or otherwise, and the state of Michigan, may be proceeded against as garnishees in the same manner and with like effect as individuals under the provisions of this chapter, and the rules of law regulating proceedings against corporations and the provisions of law regulating the service of summons from justice court upon such corporations in other cases, shall be applicable to the service of summons in garnishment cases, and such service may be made in the same or any adjoining county.

Service of summons.

Am. Id.

(379) § 14391. SEC. 31. It shall be the duty of the officer or person so served, or the proper officer of such corporation having knowledge of the facts, to appear before the justice at the return day of the summons and answer thereto, or to answer at his option in writing, verified by his oath before some person authorized to administer oaths and transmit the same by mail or otherwise to the justice issuing said

Duty of officer served, etc.

summons, on or before the return day thereof, which shall be deemed a sufficient compliance with such summons, and all proceedings thereafter shall be the same as in garnishment cases against individuals.

When corporation deemed indebted to defendant.

(380) § 14392. SEC. 32. If said corporation shall not so appear or so answer, if a judgment shall have been obtained against said principal defendant, and the time for taking an appeal therefrom shall have expired, and if no appeal shall have been taken, such corporation shall be held to be indebted to the defendant in the original suit to the amount of the judgment against the principal defendant, unless within three days after the return day of such summons, such corporation shall appear and show a sufficient reason to the satisfaction of the justice for having failed to answer such summons, and the justice shall thereupon on the third secular day render judgment against such corporation as against other garnishees, for the amount of such debt and with like effect; but on such cause being shown, such officer may make disclosure and be examined as other garnishees and proceedings thereafter shall be the same as though answer had been made within the time limited therefor. If judgment shall not have been rendered against the principal defendant, or if judgment shall have been rendered and the time for appeal shall not have expired, said garnishment case shall stand adjourned until the determination of the principal suit, and the proceedings thereafter shall be the same as in cases against individuals.

Judgment.

Disclosure, on cause shown.

When garnishment adjourned.

No summons until judgment rendered.

(381) § 14393. SEC. 33. No summons in garnishment shall issue against a municipal corporation, or against the state of Michigan, under the provisions of the preceding section, until a judgment shall have been rendered against the defendant in the principal suit: Provided, however, That the state and the several counties thereof shall not be proceeded against in garnishment under the provisions of this act where the liability of the principal defendant accrued prior to the date when this act takes effect.

Proviso.

Am. 1919, Act 233.

Appeal.

(382) § 14394. SEC. 34. When any corporation shall wish to appeal, in cases where it has not answered as garnishee, it shall in addition to the other requirements of law, file with the justice a full and complete answer in writing as such garnishee, verified by the oath of an officer of the corporation having knowledge of the facts.

CRIMINAL ENACTMENTS.

FRAUDULENT STOCK.

An Act to prevent the issue and sale of fraudulent stock by incorporated companies.

[Act 128, S. L. 1855.]

The People of the State of Michigan enact:

(383) § 15080. SECTION 1. Any person or persons who shall fraudulently issue or cause to be issued, any stock, scrip, or evidence of debt, of any bank, insurance, mining, plank, or other incorporated company of this state, or who shall sell or offer for sale, hypothecate, or otherwise dispose of any such stock, scrip, or other evidence of debt, knowing the same to be so fraudulenty issued, shall be deemed guilty of a felony, and on conviction thereof shall be punished by imprisonment in the state prison not more than ten nor less than one year. Issuing fraudulent stock, etc., made felony. Punishment.

See also the so-called "Blue Sky Law," Act 220, P. A. 1923.
See Ford v. Kalamazoo Cir. Judge, 192 / 337.

(384) § 15081. SEC. 2. Any person or persons who shall sell, or offer for sale any stock thus fraudulently issued, and purporting to be the stock, scrip, or evidence of debt of any corporation located out of the state of Michigan, knowing the same to be so fraudulently issued, or shall hypothecate, or in any manner dispose of the same for value, shall, on conviction thereof, be punished by imprisonment in the state prison not more than ten nor less than one year. Knowingly selling fraudulent stock, how punished.

(385) § 15082. SEC. 3. Every banking, insurance, mining, plank road, or other incorporated company, which issues script or shares, shall within ninety days after the passage of this act, file with the secretary of state a list of the number of shares issued by said corporation, and the names of the owners thereof and their postoffice addresses, with the number of shares owned by each; and annually thereafter shall file with said secretary of state during the months of January or February, in each and every year, a statement similar to that above required, showing the ownership of the shares of said corporation at the day of the date of said statement; all of which statements, including the first, shall be made by one of the officers of said company, under oath: Provided, That corporations which file an annual report with the secretary of state containing a list of stockholders with the postoffice addresses and the number of shares held by each, shall not be required to file a separate list under this act. With whom to file list of shares. To make annual report. Proviso.

(386) § 15083. SEC. 4. In case any of said incorporated companies shall fail so to make such primary or such annual statements as are above required, they shall be liable to pay a fine of not more than five hundred dollars for any such violation of this law, which may be recovered in the name of the Fine for neglect to file statement, etc.

Fine, how disposed of.

people of the state of Michigan, in any court of record, and when so collected shall be paid into the township treasury of the town or city where such corporation is located, for the benefit of the primary school fund of said town or city.

REQUIRING INSURANCE IN PARTICULAR COMPANIES.

An Act to prohibit corporations from requiring any of its employes to procure life or accident insurance in any particular company or companies, and to declare void all contracts hereafter made between any corporation and its employes providing for life or accident insurance by such employe in any particular company.

[Act 209, P. A. 1895.]

The People of the State of Michigan enact:

Employes not required to insure with any particular company.

(387) § 11357. SECTION 1. That it shall hereafter be unlawful for any company or corporation doing business in this state or for any of the officers and agents of any such company or corporation, to require any of the employes of such company or corporation to take out or obtain a life, accident or life and accident policy in favor of such employe or other person in any particular or designated life, accident or life and accident company or association.

Contracts so made declared void.

(388) § 11358. SEC. 2. All contracts hereinafter made between any such company or corporation and any employe of said company or corporation requiring or stipulating that the employe so contracting shall procure, obtain or have a policy of insurance in any particular or designated company or association shall be void: Provided, That nothing in the foregoing provisions of this act is intended to prohibit, or shall be construed as prohibiting the employers of labor and the persons employed from voluntarily making agreements with each other for contributions of money by the latter to any fund to be accumulated in their behalf and for their benefit in common with others, and in such case from further agreeing that the employer may deduct from their wages, from time to time, the sums due from them under such agreement.

Proviso, agreement between employer and employe.

Penalty for violation of act.

(389) § 11359. SEC. 3. The violation of any of the provisions of this act is hereby made a misdemeanor, and any company or corporation violating any of the provisions of this act shall be punished by a fine of not more than two hundred dollars for each and every offense, and any shareholder, officer or agent of any company or corporation violating the provisions of this act shall be punished by imprisonment in the county jail not more than sixty days, or by a fine of not more than one hundred dollars for each offense, or both such fine and imprisonment at the discretion of the court.

An Act to prohibit untrue, false or malicious statements in regard to fraternal beneficiary societies, insurance companies, and reciprocal exchanges.

[Act 283, P. A. 1923.]

The People of the State of Michigan enact:

(390) SECTION 1. Any person who shall make, utter, circulate or transmit to another or others, any untrue, false or malicious statement, as to the financial condition of any fraternal beneficiary society, insurance corporation, insurance company, reciprocal exchange, or other insurer, doing business in this state, and shall thereby injure any such fraternal beneficiary society, insurance corporation, insurance company, reciprocal exchange, or other insurer, or who shall counsel, aid, procure or induce another to originate, make, utter, transmit or circulate any such statement with like purpose shall be guilty of a misdemeanor, and upon conviction, shall be fined not to exceed one thousand dollars or imprisoned in the county jail for a period not exceeding one year, or by both such fine and imprisonment. Misdemeanor. Penalty.

KILLING OF INSURED LIVESTOCK.

An Act to provide a punishment for the wilful injury or killing of live stock insured by any live stock insurance company, with intent to defraud such insurance company.

[Act 165, P. A. 1893.]

The People of the State of Michigan enact:

(391) § 15352. SECTION 1. That any person who shall injure or kill any horse, mule or other live stock which shall be insured by any live stock insurance company authorized to do business in this state, when such killing or injury shall be with the wilful intent on the part of such person to defraud such insurance company, whether such person shall be the owner of such insured property or not shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the state prison for a term not exceeding two years, or by both such fine and imprisonment, in the discretion of the court. The unlawful killing of animals insured. When guilty of felony. Penalty.

BURNING OF INSURED PROPERTY.

[Extract from ch. 154, R. S. '46.]

(392) § 15289. SEC. 9. Every person who shall wilfully burn any building, or any goods, wares, merchandise, or other chattels, which shall be at the time insured against loss or damage by fire, or shall wilfully cause or procure the Burning property insured.

same to be burned, with intent to injure the insurer, whether such person be the owner of the property or not, shall be punished by imprisonment in the state prison not more than ten years.

This section includes two distinct offenses—where any person shall "wilfully burn insured property, with intent to defraud the insurer," and where anyone "shall wilfully cause or procure the same to be burned, with intent to injure the insurer."—Meister v. People, 31 / 112; People v. Jones, 24 / 215; Jhons v. People, 25 / 499; Hamilton v. People, 29 / 173; People v. Mix, 149 / 260; People v. Woods, 206 / 11.

FORGERY.

[Extract from ch. 155, R. S. '46.]

Forgery of records and other instruments.

(393) § 15432. SECTION 1. Every person who shall falsely make, alter, forge, or counterfeit any public record, or any certificate, return or attestation of any clerk of a court, public register, notary public, justice of the peace, township clerk, or any other public officer, in relation to any matter wherein such certificate, return, or attestation may be received as legal proof, or any charter, deed, will, testament, bond or writing obligatory, letter of attorney, policy of insurance, bill of lading, bill of exchange, promissory note, or any order, acquittance or discharge for money or other property, or any acceptance of a bill of exchange, or indorsement, or assignment of a bill of exchange or promissory note for the payment of money, or any accountable receipt for money, goods or other property, with intent to injure or defraud any person, shall be punished by imprisonment in the state prison not more than fourteen years, or in the county jail not more than one year.

Uttering forged instruments.

(394) § 15433. SEC. 2. Every person who shall utter and publish as true, any false, forged, altered or counterfeit record, deed, instrument or other writing mentioned in the preceding section, knowing the same to be false, altered, forged or counterfeit, with intent to injure or defraud as aforesaid, shall be punished by imprisonment in the state prison not more than fourteen years, or in the county jail not more than one year.

MISCELLANEOUS.

INSURANCE OF COUNTY BUILDINGS.

[Extract from ch. 14, R. S. '46.]

Insurance of buildings of county.

(395) § 2370. SEC. 44. When directed by the board of supervisors, the county treasurer shall cause to be insured any or all the public buildings belonging to the county, as said board shall direct, and the insurance thereon shall be taken in the name of the treasurer, and his successors in office.

(396) § 2371. SEC. 45. In case of the destruction of, or damage done to the buildings so insured, the treasurer shall have authority, and it shall be his duty, to demand and receive the moneys which shall be due on account of such insurance, and in case of neglect or refusal to pay the same, he shall sue for and collect such moneys in his name of office whenever directed by the board of supervisors, and pay the same into the county treasury, to be used in repairing or rebuilding such public buildings. Treasurer to collect moneys in case of damage.

Under this section, the supervisors have no authority to expend money received from insurance upon public buildings for any other purpose than the reconstruction of the same.—Att'y General v. Alcona supervisors, 167 / 667.

INSURANCE ON STATE PROPERTY.

An Act to provide for state insurance on state property and against liability arising or that may arise under the provisions of act number ten of the first special session of nineteen hundred twelve.

[Act 388, P. A. 1913.]

The People of the State of Michigan enact:

(397) § 9268. SECTION 1. On and after the passage of this act, no officer or agent of this state and no person or persons having charge of any public buildings or property of the state shall pay out any public moneys or funds on account of any insurance against loss by fire, lightning or tornado, or shall in any manner contract for or incur any indebtedness against the state on account of any such insurance upon any of the public buildings, furniture, fixtures, or property of any kind whatever belonging to the state, or against any liability arising or that may arise under the provisions of act number ten of the first special session of nineteen hundred twelve, except in a manner hereinafter provided. State insurance.

(398) § 9269. SEC. 2. Upon July first, nineteen hundred thirteen, and annually thereafter, the commissioner of insurance of this state shall provide for the insurance by the state of all state property in the following manner: First, he shall determine the insurable value of each item of property and shall fix the rate of insurance, which rate shall not exceed sixty cents per hundred dollars of insurance; second, he shall certify to the auditor general the amount of insurance upon such property to be carried by the state, together with a statement of the premium on such insurance according to the rates fixed as above provided, and the auditor general shall order the state treasurer to credit to an account which shall be kept by the treasurer and known as the "state insurance fund" an amount equal to the premium as fixed by the commissioner of insurance, and the amount so credited by the state treasurer to the state insurance fund shall be debited by the state treasurer to the general or contingent fund of the state: Provided, however, That on July Duty of commissioner of insurance. State insurance fund. Proviso.

first, nineteen hundred fourteen, and annually thereafter such amount shall be debited by the state treasurer to the current expense fund appropriated by the legislature for each state institution or department, and the amount so debited by the state treasurer shall be deducted by him from any funds which may be in his hands, or which may thereafter come into his hands and be payable to the account of said state institution or department, for the care and maintenance of such state buildings and property: Provided, however, That whenever such state insurance fund shall equal one million dollars no further sum shall be credited thereto until such fund shall be less than one million dollars.

Proviso.

Investment of fund.

(399) § 9270. SEC. 3. The commissioner of insurance and state treasurer shall cause not less than ninety per cent of the moneys in said "state insurance fund" to be invested and reinvested in the securities in which fire insurance companies organized under the laws of this state are authorized to invest, and in like manner may sell and dispose of such securities as may be necessary to carry out the provisions of this act: Provided, however, That no such investment shall be made nor any securities sold or disposed of except by and with the consent and approval in writing of the board of state auditors.

Proviso.

When damage to be fixed.

(400) § 9271. SEC. 4. In case any buildings or property of the state shall be damaged by fire, lightning or tornado, the commissioner of insurance shall within thirty days, or as soon as possible thereafter ascertain and fix the amount of such damage and forthwith file with the state treasurer and the auditor general a statement of the same.

Payment of loss.

(401) § 9272. SEC. 5. When the amount of loss has been fixed and determined by the commissioner of insurance and certified to the auditor general, the auditor general shall issue a warrant in the amount fixed by the commissioner of insurance as a transfer of the amount fixed as damages from the state insurance fund and credited to the proper fund of the officer, board of control, board of trustees, or other agents in whose control said buildings or property belong, to be used by said officer, board, or agent by and with the consent of the board of state auditors, for the rebuilding or restoring of the property damaged, and to be disbursed by the state treasurer in such manner as other state funds for the use of said officer, board, or agent are paid out; and if during the rebuilding or restoring of such property it shall be necessary in the opinion of said board of state auditors to expend any additional amounts over and above the amounts certified by the commissioner of insurance to the auditor general, then there may be transferred from the state insurance fund and credited to the proper fund an amount equal to ten per cent of such certified amount, but in no case to exceed fifty thousand dollars, to be paid out in the same manner as provided for the payments made from the original transfer; and if at the time of any such award of loss or damage by the commissioner of insurance, there shall not be in the state insur-

Additional amounts.

Transfer of funds.

ance fund an amount equal to such award, the auditor general shall, notwithstanding this fact, draw his warrant payable from the general fund, and the state treasurer shall promptly pay such warrant out of any moneys in his hands in the manner above provided.

Assessment for "accident fund."

(402) § 9273. SEC. 6. Upon July first, nineteen hundred thirteen, and annually thereafter the commissioner of insurance shall determine the premium or assessment necessary to pay the compensation accruing under act number ten of the first special session of nineteen hundred twelve to persons in the service of the state, except that such premium shall not cover the medical and hospital services and medicines as required by said act, but the cost of same shall be paid by each state institution out of its current expense fund, and he shall then certify the same to the auditor general, and the auditor general shall order the state treasurer to credit to the "accident fund" created by the above mentioned act the amount so certified, and the amount so credited by the state treasurer to said accident fund shall be debited by him to the current expense fund appropriated by the legislature for each state institution or department, and for the purposes of this act the state shall be entitled to all of the benefits and subject to all of the liabilities of an individual employer who has availed himself of the provisions of part five of said act number ten of the first special session of nineteen hundred twelve: Provided, however, That any credits that may be due the state under said act shall be credited to the respective funds or accounts contributing to said accident fund.

Proviso, credits.

Duplicate statements.

(403) § 9274. SEC. 7. A duplicate copy of all reports and statements required herein of the commissioner of insurance and of each officer, board or agent in each section of this act, shall be filed with the auditor general by each such officer, board or agent.

Assistants.

(404) § 9275. SEC. 8. The commissioner of insurance may employ such assistants as may be necessary and as the board of state auditors may authorize for the carrying out of the provisions of this act.

Repealing clause.

(405) § 9276. SEC. 9. All acts or parts of acts inconsistent with this act are hereby repealed.

State insurance fund, increase, etc., of.

(406) SEC. 10. From and after the enactment of this section, the state insurance fund shall not be increased in excess of its existing amount; and no assessment shall hereafter be made against any department, board, institution or office of the state during any fiscal year excepting as shall be ordered by the state administrative board, who shall determine the necessity therefor, the total amount to be assessed, not exceeding the rate fixed in section two hereof, and the time when such assessment shall be made. Upon receipt of the order of the said board the commissioner of insurance shall proceed to put such order into effect in the manner hereinbefore provided in section two.

Added 1921, (1st ex. sess.), Act 4.

FEES, ETC., OF CORPORATIONS.

An Act prescribing the fees, taxes and charges to be paid to the state by corporations doing or seeking to do business in this state; prescribing the method and basis of computing such fees, taxes and charges; requiring certain annual reports to be filed by corporations; providing for the disposition of the moneys received under this act and prescribing penalties for non-compliance with the provisions thereof.

[Act 85, P. A. 1921.]

The People of the State of Michigan enact:

Fees, amount, etc.

(407) SECTION 1. Hereafter the fees to be paid to the secretary of state by or in behalf of corporations, for the purposes herein specified, shall be as follows: For filing, examining and certifying articles of domestic corporations, five dollars; for filing and examining articles or certificates of incorporation, and other papers connected with the application of a foreign corporation for admission to do business in Michigan, ten dollars; for filing and examination of any annual or special report required by law, two dollars; for examining, filing and certifying any amendment to the articles, either of domestic or foreign corporations, five dollars; for filing and examining any notice of final dissolution or change of attitude, five dollars; for preservation of records at the request of any corporation voluntarily dissolved, ten dollars; for certifying any part of the files or records pertaining to a corporation for which no other provision is herein made, a minimum charge of one dollar for each certificate, and fifty cents per folio for the matter so certified to; for certifying and forwarding the record of any determination of a franchise fee to the appeal board, ten dollars; all of which fees shall be paid by the corporation at the time of filing or when the service is rendered by the secretary of state. All such fees shall be in addition to the franchise fees prescribed in this act, and shall, when collected, be covered into the treasury of the state, and there be credited to the general fund.

Franchise fee.

(408) SEC. 2. Every corporation organized or doing business in this state, other than those doing business for a profit, shall upon filing its articles, or, if a foreign corporation, upon filing its application for admission, pay to the secretary of state a fee of ten dollars for the privilege of exercising its franchises within this state upon such organization or admission as the case may be; and at the time of filing each of its annual or other reports, as required by law, each such corporation shall pay a further fee of ten dollars to the secretary of state, for the privilege of exercising such franchise within this state for the period from the time of such report until the filing of the next succeeding report required by law.

Fees payable.

(409) SEC. 3. Every domestic corporation hereafter organized for profit, and every foreign corporation for profit, hereafter applying for admission to do business within this state, shall, at the time of filing its articles or applying for admission, as the case may be, pay to the secretary of state,

as an organization fee and for the privilege of exercising its franchises within this state, a sum equal to one-half mill upon the dollar for each dollar of the authorized capital stock of such corporation; and each corporation, heretofore or hereafter incorporated under the laws of or admitted to do business in this state, shall pay a proportionate fee upon each and any increase in its authorized capital stock made subsequent to the passage of this act: Provided, That in case of a foreign corporation, such fee shall be computed upon that portion of its authorized capital stock represented by the portion of its property owned and used in Michigan: And provided further, That in no case, either as to a domestic or a foreign corporation, shall the organization fee be less than twenty-five dollars. The term "corporation" as used in this act shall be deemed to include partnership associations, limited, whether domestic or foreign, all joint stock associations having any of the powers of corporations, and such common law trusts or trusts created by statute of this or any other state or country exercising common law powers in the nature of corporations, in addition to such other corporations as are referred to in this act.

Proviso, foreign corporations.

Further proviso, minimum.

"Corporation", what deemed.

Am. 1923, Act 233.

(410) SEC. 4. Every corporation organized or doing business under the laws of this state, excepting those hereinafter expressly exempted therefrom, shall, at the time of filing its annual report with the secretary of state of this state, as required by section seven hereof, for the privilege of exercising its franchise and of transacting its business within this state, pay to the secretary of state, an annual fee of two and one-half mills upon each dollar of its paid-up capital and surplus, but such privilege fee shall in no case be less than ten dollars nor more than fifty thousand dollars.

Privilege fee.

Minimum and maximum.

Am. Id.

(411) SEC. 4-a. Every building and loan association organized or doing business under the laws of this state shall at the time of filing its annual report as required by section seven hereof, for the privilege of exercising its franchise and of transacting its business within this state, pay to the secretary of state an annual fee of one-half mill upon each dollar of its paid in capital and legal reserve.

Building and loan associations.

Am. Id.

(412) SEC. 4-b. Every corporation organized for profit under the laws of this state or doing business in this state, principally engaged in the development of mines and mining of iron, copper, silver and other mineral ores within this state, shall, at the time of filing its annual report with the secretary of state as required by section seven hereof, for the privilege of exercising its franchise and of transacting its business within this state, pay to the secretary of state, an annual fee of two and one-half mills upon each dollar of the fair average

Mining companies.

Fee.

Minimum and maximum.

value of its issued capital stock for the preceding year ending June thirty. In estimating the value of capital stock, the surplus and undivided profits shall be included but such fee shall in no case be less than ten dollars nor more than fifty thousand dollars.

Am. Id.

How fees computed.

(413) SEC. 5. In the case of computing the privilege fees prescribed in sections three and four of this act as to foreign corporations, such computation shall be made upon the proportion of the corporation's property owned and used in Michigan in the ratio that such property bears to the entire property of the corporation, and such ratio shall be applied by the secretary of state to determine the amount of the authorized capital stock of such corporation owned and used in Michigan, and to determine what portion of the corporation's paid-up capital and surplus, severally, are owned and used in Michigan. The term "surplus," as used in this act, shall be taken and deemed to mean the net value of the corporation's property, less its outstanding indebtedness and paid-up capital; but in no case, either as to domestic or as to foreign corporations, shall any deduction be made from the item of paid-up capital, in computing the privilege fee thereon, by reason of any impairment of the same. None of the property or capital, of any corporation subject to paying the privilege fee prescribed in section four which is located without the state of Michigan, and none of the capital or surplus of such corporation represented by property exclusively used in interstate commerce, shall in any case enter into the computation of the net amount of the authorized capital, or the capital and surplus, as the case may be, upon which the computation of the privilege fees shall be made, and the secretary of state shall in all such cases be authorized to require the corporation to furnish detailed and exact information touching such several matters before making a final determination of the privilege fee to be paid by such corporation. For the purpose of this act only, each share of no par value shall be deemed to have the value of at least one dollar, or such value as shall have been fixed by the corporation for the sale of such stock, or the book value as determined by the secretary of state, whichever may be the higher. In any case where the capital of a corporation is not divided into shares, the whole property thereof shall be deemed to be the authorized capital stock for the purpose of this act.

"Surplus," what deemed.

Sec. 6 was repealed by act 233, P. A. 1923.

Annual report.

(414) SEC. 7. Every corporation, for profit, whether domestic or foreign, authorized or admitted to do business within this state, excepting only railroad companies and interurban railroad companies, and telephone and telegraph companies, express companies, and foreign insurance companies, shall, in the month of July or August of the year nineteen hundred twenty-one and annually thereafter in the same

months, file a report with the secretary of state showing its condition at the close of business upon the thirty-first day of December or upon the date of the close of its fiscal year next preceding the filing of such report, which report shall be upon a form to be prescribed by the secretary of state, and shall contain, among other statements, the name of the corporation, place of doing business either within or without the state, the names and addresses of its officers and directors, the amount of authorized capital stock, and the number of shares of each class authorized, the capital stock subscribed, and paid for, and the par value of each kind of shares authorized; the market value of and the price fixed by the corporation for the sale of its shares of no par value, if any; the nature and kind of business in which such corporation is engaged, and the nature, location and value of the property owned and used by the corporation both in and without Michigan, given separately; and a complete and detailed statement of the assets and outstanding liabilities of the company. Such report shall contain such other and further information as may be required by the secretary of state whose duty it shall be to compute the fees prescribed in this act; and shall be signed and sworn to before an officer duly authorized to administer oaths by the president or the vice-president, and the secretary or the general manager of the corporation, and shall be forwarded to the secretary of state at Lansing. All other corporations, subject to this act, shall file their reports with the secretary of state, in such form as shall be prescribed by him, or as shall otherwise be prescribed by law, within the months of July and August of the year in which required by the general corporation laws of this state. Any list of stockholders required by law to be filed with the secretary of state shall be filed with and as a part of the annual report required herein.

What to contain.

Am. 1923, Act 233.

(415) SEC. 8. Every corporation paying any fee for any purpose to the secretary of state shall be entitled to a receipt for the same, showing the time of payment and the purpose for which paid. All fees of every nature paid to the secretary of state under the provisions of this act shall be covered into the state treasury and shall there be credited to the general fund of the state, and shall be available for any purpose for which such general fund is made available by law.

Receipt, what to show.

Fees, where credited.

(416) SEC. 9. The attorney general as chairman thereof, the state treasurer, and the auditor general as secretary thereof, shall constitute an appeal board for the purpose of hearing any appeals from the decision of the secretary of state as to the amount of any privilege fee determined by him, and any corporation conceiving itself aggrieved as to the amount of such fee based upon the facts may appeal to such appeal board within ten days after such determination for a redetermination thereof. Such board shall be authorized to compute the fees in such case upon the same basis and by the

Appeal board, who to compose.

same rules as are hereinbefore prescribed; and in all such cases the decision of such appeal board, as to the amount of such fees, shall be final, and shall be certified back to the secretary of state as soon as made.

Failure to make report.

(417) SEC. 10. In case any corporation required to file the report and pay the fee or fees prescribed in this act shall fail or neglect to make such report within the period required by law, such corporation shall, in addition to its liability for such privilege fee and interest thereon, be subject to a penalty of one hundred dollars, and an additional penalty of five dollars for each day's continuance of such failure or neglect, which penalty or penalties shall be collected in an action to be instituted by the attorney general of this state as prescribed by law; and it shall be the duty of the secretary of state to report to the attorney general every case of such failure or neglect promptly.

Saving clause.

(418) SEC. 11. Should any provision or section of this act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion hereof, it being the legislative intent that the act shall stand, notwithstanding the invalidity of any such provision or section.

Sec. 12 repeals inconsistent acts.

COMPUTATION OF TAXABLE CORPORATE PROPERTY.

[Extract from Act 206, P. A. 1893.]

Corporate property, how assessed.

(419) § 4005. SEC. 11. All corporate property, except where some other provision is made by law, shall be assessed to the corporation as to a natural person, in the name of the corporation. The place where its office is located in its articles of incorporation shall be deemed its residence: Proviso. Provided, Its business is actually transacted at such office; but if it shall establish its principal office in any other place than the place named in its articles of incorporation, then the place where it transacts its principal business shall be deemed its residence for all the purposes of this act. If there be no principal office in this state, then at the place in this state, where such corporation or agent transacts business: Further proviso. Provided further, That all the personal property of all corporations heretofore or hereafter organized under the laws of this state for the purpose of engaging in maritime commerce or navigation shall be assessed only in the city, village or township which is stated in their original articles of association or in any amendment thereof heretofore or hereafter made to be the location of their general office for business. Corporations paying specific taxes. The property of corporations paying specific taxes shall be exempt as to the property covered by such taxation, except when otherwise provided by law. Property of insurance companies, how computed. All other property of such corporation shall be taxed under this act. In computing the taxable property of insurance companies organized under the laws of this state, the value of the real prop-

erty on which a company pays taxes shall be deducted from its net assets above liabilities, as determined and shown by the last report of the commissioner of insurance, including in such liabilities the legal reserve required by the laws of this state, or the regulations of the insurance department, and the remainder shall be the personal property for which the company shall be assessed.

Taxation of insurance companies.—Insurance Co. v. Assessors, 91 / 517; Id. 95 / 466; Mich. Mut. Life Ins. Co. v. Hartz, 129 / 101; City of Yale v. Ins. Co., 179 / 254.

This section indicates an intention to tax the property of the company, and not a design to impose a franchise tax.—F. & M. Ins. Co. v. Hartz, 132 / 518. Prior to the amendment of 1903, the reinsurance reserve fund of an insurance company was not considered a debt in the ordinary sense of the term and did not entitle the company to the exemption of an equal amount of credits from taxation.—Id. And it was properly included among liabilities in determining the net assets of an insurance company for the purpose of taxation under the section.—Mich. Mut. Life Ins. Co. v. Detroit Com. Council, 133 / 408; Assurance Co. v. Com. Council, 176 / 80. Place of residence, see Detroit v. Lothrop Estate Co., 136 / 265; Transportation Co. v. Detroit Assessors, 139 / 1. Situs of property. —Portsmouth Twp. v. Cranage Steamship Co., 148 / 230.

TRANSCRIPTS WITHOUT FEE, TO SOLDIERS, ETC.

An Act to require the issuance, without fee or charge therefor, of transcripts, under seal, of any records of the offices of secretary of state, adjutant general, judges of probate, county clerks and justices of the peace, pertaining to pensions, insurance payments or annuities, to soldiers, sailors and marines of the several wars of the United States and to their widows or other dependents, either in person or by attorney.

[Act 243, P. A. 1919.]

The People of the State of Michigan enact:

(420) SECTION 1. Upon request, either in person or by attorney, transcripts, under seal, of any records of the offices of secretary of state, adjutant general, judges of probate, county clerks and justices of the peace, pertaining to pensions, insurance payments or annuities, shall, without charge or fee therefor, be issued to soldiers, sailors and marines of the several wars of the United States and to their widows or other dependents. Transcripts without fee.

CERTIFICATE OF DEATH, PRIMA FACIE EVIDENCE.

[Extract from Act 217, P. A. 1897.]

(421) § 5607. SEC. 4. Registers of deaths shall be supplied by the secretary of state to registrars for recording certificates of death, together with all blanks required for the execution of this act. On the fourth day of each month the registrar of each township, village and city shall promptly transmit to the secretary of state, in an official envelope provided by the state and stamped with one full letter stamp, all the certificates of death filed in his office during the [preceding] proceeding calendar month, with a statement of the When to report to secretary of state.

Proviso, in cities.

number of deaths so reported: Provided, That the registrars of cities, may in lieu of the original certificates of deaths transmit certified copies of the same to the secretary of state. If no deaths occurred, he shall make a return to that effect upon a postal card blank. The certificates of death returned to the secretary of state shall be permanently preserved, bound and indexed by him; the statistical data therein contained shall be compiled and published in the annual registration report, and monthly bulletins shall be issued showing the mortality of the state in detail, the prevalence of important causes of death, and such other information as shall be of public interest and sanitary value. The registrar shall also send a transcript monthly to the clerk of his county containing a record of all of the deaths entered upon his register during the preceding calendar month for entry upon the county record of deaths. All certificates of death, local registers or county records authorized under this act or certified copies thereof shall be prima facie evidence in all courts and for all purposes of the facts recorded therein.

Monthly report to county clerk.

Prima facie evidence.

Under the provisions of Act 170, P. A. of 1921, all powers and duties now vested by law in the secretary of state with reference to the registration of deaths and the issuing of death certificates are vested in the state commissioner of health.

CERTIFICATE OF DEATH: In an action on a life insurance policy where the defense was that the answers made by the insured to certain questions in the application were false, it was held that the certificate of death was admissible.—Krapp v. Metropolitan Life Insurance Co., 143 / 372. The certificate including that portion stating the contributing cause of death, is admissible in so far as it sets forth facts within the knowledge of the physician, but hearsay evidence in the certificate is not admissible.—Gilchrist v. Mystic Workers of the World, 188 / 466. But the physician who made said certificate would be prohibited from testifying to the facts therein stated which he acquired in his professional capacity while treating the deceased.—Krapp v. Metropolitan Life Insurance Co., 143 / 371. Under this section requiring the coroner to insert the cause of death in his certificate that he files with the board of health, and that a copy thereof shall be prima facie evidence in all courts and for all purposes of the facts recorded therein, the court was not in error in admitting in evidence the copy, which was, however, subject to contradiction.—Bromberg v. N. Am. Life Ins. Co., 192 / 143.

APPROPRIATION FOR DEPARTMENT OF INSURANCE.

An Act to make appropriations for the department of insurance for the fiscal years ending June thirty, nineteen hundred twenty-four, and June thirty, nineteen hundred twenty-five, for maintenance, operation and other purposes.

[Act 268, P. A. 1923.]

The People of the State of Michigan enact:

Amounts and purposes.

(422) SECTION 1. There is hereby appropriated from the general fund for the department of insurance for the fiscal year ending June thirty, nineteen hundred twenty-four, the sum of ninety thousand three hundred forty dollars and for the fiscal year ending June thirty, nineteen hundred twenty-five, the sum of ninety-one thousand seven hundred ninety dollars, for the purposes and in the specific amounts as follows:

	For fiscal year ending June 30, 1924	For fiscal year ending June 30, 1925
Personal service:		
Commissioner	$5,000.00	$5,000.00
Other personal service	60,300.00	60,300.00
Totals for personal service	$65,300.00	$65,300.00
Supplies	8,180.00	8,980.00
Traveling expense	13,000.00	14,000.00
Other contractual service	1,610.00	1,760.00
Outlay for equipment	2,250.00	1,750.00
Totals	$90,340.00	$91,790.00

Each of said amounts shall be used solely for the specific purposes herein stated subject to the general supervisory control of the state administrative board.

How paid out.

(423) SEC. 2. The amounts hereby appropriated shall be paid out of the state treasury, at such times and in such manner as is or may be provided by law.

Fees etc., received.

(424) SEC. 3. All fees or other moneys received by said department of insurance shall be forwarded to the state treasurer each month and shall be by said treasurer deposited in the state treasury to be disbursed in such manner and for such purposes as may be provided by law.

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